

COUNTRY TAX LAW STUDY

FOR

ITALY

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INTRODUCTION

The United States Sending State Office for Italy (USSSO) prepared this study pursuant to DoD Directive 5100.64 of 12 June 1979 and USEUCOM Directive 45-8 of 15 May 2000. USSSO is the U.S. European Command (EUCOM) legal office at the American Embassy in Rome. The Designated Commanding Officer (DCO), Commander, U.S. Naval Forces Europe (CINCUSNAVEUR), has appointed USSSO as the U.S. Country Representative for Foreign Tax Relief matters in Italy.

USSSO completed the initial tax law study in July 1971 and a second study in February 1993. We added minor modifications by message in December 1993 and January 1995, before we completed a rewrite in 1996. We completed this rewrite in July 2001. This study replaces all previous studies.

Much of the tax relief U.S. Forces operating in Italy enjoy is derived from international agreements. First and foremost, the NATO SOFA¹ contains numerous tax and customs-related provisions. The classified Bilateral Infrastructure Agreement² (BIA) and 1995 Shell Agreement³ implement the NATO SOFA and also contain relevant tax-relief provisions. Until the early 1990's, the U.S. Forces also enjoyed considerable tax relief thanks to a 1952 exchange of notes, known as the Dunn-Vanoni Agreement. Unfortunately, as highlighted in our 1996 revision, Italy's unilateral decision to rescind Dunn-Vanoni in 1991 eroded the basis for claiming various tax exemptions. Thus, our efforts often focus on obtaining specific statutory relief whenever possible.

Fortunately, we do often find that Italian tax legislation contains exemptions and exclusions applicable to the U.S. Forces in Italy. For example, as discussed in Part I below, article 72 of Italy's value-added tax law provides an exemption for U.S. commands making direct purchases of supplies and services.

DODD 5100.64 focuses to a large degree on the applicability of foreign taxes to U.S. government contractors and their subcontractors and to their employees. In this regard, we note that much of the tax relief granted by international agreements or by Italian legislation does not pass through to U.S. government contractors. Using the value-added tax example once again, U.S. government contractors cannot take advantage of the article 72 exemption when purchasing their supplies or sub-contracting for services.

¹ Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, June 19, 1951, 4 U.S.T. 1792, 199 U.N.T.S. 67 [hereinafter NATO SOFA].

² Agreement Between the Parties Regarding Bilateral Infrastructure in Implementation of the North Atlantic Treaty, Oct. 20, 1954 [hereinafter BIA]. This agreement, also known as the Bilateral Infrastructure Agreement, remains classified.

³ Memorandum of Understanding Between the Ministry of Defense of The Republic of Italy and the Department of Defense of The United States of America Concerning Use of Installations/Infrastructure By U.S. Forces in Italy, Feb. 2, 1995, TIAS 12317, 1995 U.S.T. Lexis 150 [hereinafter Shell Agreement].

Similarly, with respect to contractor employees, individual logistical support such as duty-free import of privately-owned vehicles, purchase of tax-free POL coupons, and duty-free purchases at base commissaries and exchanges, all of which civilian component members can take advantage under the terms of the NATO SOFA, is not automatic. Rather, Italy and the U.S. must accord such employees “technical representative” status in accordance with the BIA and the Shell Agreement. Base-level Staff Judge Advocates now make this determination under USSSO’s authority and guidance. Contracting activities must take this into account, as a part of each contractor employee’s total compensation “package” generally includes logistical support benefits.

When we are unable to make a colorable argument for relief based on an international agreement or domestic legislation, we seek ministerial relief in appropriate cases based on principles of customary international law, equity, and fairness (especially where Italian armed forces are exempt). For example, my office recently obtained tax relief on automobile insurance premium payments. Finally, in recognition of the substantial autonomy enjoyed by regional and local political bodies in Italy, we encourage local commands to seek local solutions. Through each of these methods, we have successfully limited, and will continue to seek to limit, the exposure of the U.S. Government, directly or indirectly, to Italian taxes.

//signed//
JOHN T. OLIVER
Captain, JAGC, U.S. Navy
Officer in Charge

PART I

GENERAL SURVEY OF APPLICABLE TAXES

A. VALUE ADDED TAX

1. DESIGNATION

Value Added Tax (*Imposta sul Valore Aggiunto* – “IVA”), Presidential Decree No. 633 of 26 October 1972, as amended. References to articles of law in the commentary below are to the basic IVA law as most recently amended by Legislative Decree No. 41 of 23 February 1995.

2. DESCRIPTION

a. The Value Added Tax is an indirect tax on each transaction involving the transfer of goods and performance of services from the producer to the consumer. One should not confuse the sales taxes that are in effect in most parts of the United States with IVA, from which they differ in important respects. IVA is mechanically simple. As the name implies, it is a tax the seller pays on the value that he adds to goods and services at his particular stage in production or distribution. All the tax paid at each stage is eventually passed on to the consumer, whose tax is the sum of all the IVA previous sellers have paid.

b. Although called a Value Added Tax, the seller does not actually calculate the value added at the seller's stage of production or distribution. Instead, when the seller buys from suppliers, the seller pays IVA at the prescribed rate. The seller then charges the customer IVA at the prescribed rate when the goods or services are sold. The seller files an IVA return at regular intervals. The seller adds up the amounts paid to suppliers ("input tax") and then deducts amounts collected from customers ("output tax"). If the seller collects more than paid, the seller pays the difference to the tax office. If the seller pays more than collected (perhaps because of inventory increases, major equipment purchases, or substantial tax-free business with the U.S. Government), the seller receives a tax credit or refund (articles 18, 27, 30). This is because the IVA the last purchaser has paid includes all the IVA intermediate sellers have paid. Thus, when the U.S. Government purchases goods or services that are IVA tax exempt, it escapes payment of all IVA taxes.

3. TAX RATE

The tax is applied to the total amount due to the transferor of goods or the performer of services under the contract. The basic tax rate is 20 percent (article 16), which applies to most goods and services. However, medicines, natural gas and electricity for domestic use, private telephone service, and most processed foods are taxed at 9 percent. Agricultural products, some

foodstuffs, and books are taxed at 4 percent.

4. TAXING AUTHORITY

IVA is a national tax administered by the Ministry of Finance (MOF) through district IVA tax offices.

5. LEGAL INCIDENCE OF THE TAX

The seller of the goods or services is legally liable for payment of IVA to the tax office (article 40).

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

IVA is applicable to all contracts for supplies, services and construction, unless a specific exemption applies (article 10).

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to IVA.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Salaries and wages are not subject to IVA. Contractor and subcontractor personnel are not exempt from payment of IVA for personal purchases. However, contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may purchase tax-free items at commissaries and exchanges to the same extent as members of the civilian component.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

In general, all transfers of goods physically located in Italy are subject to the tax. Services are generally subject to the tax when they are rendered by subjects who have domiciles in Italy or by subjects residing in Italy and not having domiciled themselves abroad or, finally, by permanent establishments in Italy belonging to non-residents. However, certain kinds of services are considered effected in Italy if specific conditions, as provided by the law, are met (articles 7, 8, 8 bis, 9).

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

a. The following types of transactions are exempt from IVA because they are not

considered to be transfers of goods under the law (article 2):

- (1) Transfers of money and pecuniary credits
- (2) Transfers of business concerns, including autonomous branches thereof
- (3) Transfers of land with restrictions on construction
- (4) Transfers of assets as a result of company mergers or transformations
- (5) Sales of newspapers, magazines, postage and tax stamps and similar items
- (6) Sales of any kind of food pastes, bread and similar items
- (7) Sales of milk

b. The following types of transactions are exempt from IVA because they are not considered to be a performance of services under the law (article 3):

- (1) Transfers of concessions, licenses, and the like relating to copyrights (by the authors, heirs, or legatees)
- (2) Loans of bonds and related services
- (3) Performance of services related to transfers of business, land, and assets in a merger otherwise exempt from IVA under article 2

c. The following types of transactions are exempt from IVA pursuant to articles 8, 8 bis, and 9:

- (1) Property rental
- (2) Post and telegraph services
- (3) Tax collection services
- (4) Transfers of shares
- (5) Financing and credit transactions, regardless of who performs them (including extension of payment)
- (6) Insurance service
- (7) Brokerage services related within certain exempt services
- (8) Urban public transport
- (9) Garbage disposal
- (10) Most medical services
- (11) Funeral services
- (12) Education
- (13) Child and retirement care
- (14) Libraries
- (15) Museums
- (16) Zoos
- (17) Picture galleries
- (18) Employee aid and welfare services
- (19) Guard services
- (20) Commercial farm rentals
- (21) Games of chance

(22) Export transfers and related transactions

d. Goods and services sold to and imported by NATO military commands in the discharge of their institutional functions are exempt from IVA (articles 68 and 72). This exemption also applies to utilities furnished to living quarters of members of the force and civilian component, provided that the U.S. Government leases or owns the quarters and contracts for services directly with the utility company. However, it does not apply to U.S. Government contractors.

e. Work performed on property, temporarily imported into Italy by non-residents, may be exempt from IVA (article 9.9). Motor vehicles licensed by U.S. Forces in Italy (AFI and "cover" plated) are considered temporarily imported for tax and customs duty purposes. Accordingly, U.S. Forces are exempt from IVA on repair work (parts and labor) on AFI and cover-plated vehicles.

f. Goods and services sold to and imported by diplomatic missions, United Nations organizations, and EU organizations in Italy are tax exempt for transactions over 500,000 *lire* for countries which grant reciprocal rights to Italy (Law Decree No. 41 of 23 February 1995, article 13). This includes the United States, and includes personal purchases by U.S. diplomatic personnel.

g. With a minimum purchase of 300,000 *lire*, non-EU residents may receive an IVA tax refund on goods exported from Italy within 90 days of purchase. The purchaser must have the receipt stamped at customs upon departing the EU, and the stamped receipt must be returned to the issuing store (or tax-free service company) within 90 days for reimbursement of the IVA. Many vendors participate in the "Tax Free for Tourists" program, offering instant cash refunds in the main airports and border stations of Italy and Europe.

11. METHOD OF COLLECTION

As noted above, sellers charge customers IVA at the prescribed rate when goods or services are sold. The seller files an IVA return at regular intervals.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

Each year in Italy, the U.S. Forces contract for substantial purchases of goods and services that would normally be subject to the tax. Without this exemption, it is clear that IVA would have a significant effect on U.S. Forces expenditures in Italy, particularly upon the provision of utilities.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. The invoice for tax-free transactions must contain a notation that the transaction is nontaxable or exempt from taxes and must cite the relevant law. An authorized officer of the

base contracting office must sign the statement and apply an official seal or stamp. The annotated statement, invoice, and check must be returned to the vendor. Vendors also require that the buyer complete a form mandated by European Union regulations. The vendor presents the completed form to the customs authorities in order to recoup the IVA.

b. Of particular U.S. Government interest is the IVA relief on utilities provided to dwellings and commercial properties leased, consigned, or rented by the U.S. Forces. Law 427/93 provides an IVA exemption for the supply of water and energy necessary for the exercise of the institutional functions of the U.S. Forces military commands operating under NATO. The exemption applies even though such goods and services are provided to private quarters or dwellings of members of the force or civilian component, as long as the command certifies that the fiscal burden is an official expense. This is normally done by having the individual utility contracts registered in the name of the command (usually Services/MWR) rather than with the individual service member.

B. CUSTOMS DUTIES

1. DESIGNATION

Customs Duties (*Dazi Doganali*), Legislative Decree No. 43 of 23 January 1973, as amended.

2. DESCRIPTION

As a general rule, customs duties are applicable to foreign-made goods imported into Italy. As a member of the European Economic Community, Italy uses the Common External Tariff schedule of the EEC for all imports from non-EEC countries. The tax is assessed on the landed value of the imported goods. Trade between EEC-member states is essentially duty-free.

3. TAX RATE

The rates range from 0 to 40 percent, depending upon the type of goods.

4. TAXING AUTHORITY

Customs duties are a national tax administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

The importer of the goods is liable for submission of a customs declaration and payment of duties.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Customs duties apply to all foreign-made goods imported into Italy except as discussed in paragraphs 10 and 13 below.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to customs duties.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may import their household goods and three privately-owned vehicle duty free in accordance with articles XI(5) and XI(6) of the NATO SOFA and various Ministry of Finance circular letters.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Goods temporarily imported for processing and subsequently exported are ordinarily free of duty.

11. METHOD OF COLLECTION

Settlement of the tax due is required before the goods may be cleared through Italian customs at the port of entry.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

U.S. Forces in Italy import substantial quantities of goods from the United States and elsewhere. In the absence of relief from customs duties, there would clearly be a significant economic burden on the U.S. Government.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. Article XI of the NATO SOFA provides a complete exemption from customs duties, and few problems have occurred with direct military imports or withdrawal from bonded warehouses. AE Form 302, executed by an authorized officer stating the goods are being imported for the exclusive use of U.S. Forces, accomplishes the release of the goods. No relief procedure exists for goods imported on a non duty-free basis and later sold to the U.S. Government. Problems also occur when goods are shipped by or from a vendor located outside of Italy to a vendor or contractor for the U.S. Forces; avoid such purchases where practical.

b. Service charges imposed by customs inspectors for the ministerial acts of inspecting and clearing customs shipments are defined and set by regulations of the MOF and customs sub-departments; distinguish these charges from duties and taxes and pay them.

C. PORT FEES ON GOODS

1. DESIGNATION

Port Fees on Goods (*Tassa di Sbarco e Imbarco sulle Merci Transportate per Via Marittima*), Law Decree No. 82 of 9 February 1963, as amended by Law Decree No. 69 of 13 March 1988.

2. DESCRIPTION

A port fee (or landing tax) is charged for goods loaded or off-loaded at Italian harbors, roadsteads, and beaches, irrespective of the country of origin or destination of the goods.

3. TAX RATE

The tax rate varies with the type of goods and particular port involved, ranging from a minimum rate of 30 *lire* to a maximum of 360 *lire* per metric ton.

4. TAXING AUTHORITY

The tax is a national tax administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF TAX

The legal incidence of the tax falls on the carrier but is collected from the captain of the ship as the carrier's legal representative, with the right of reimbursement from the sender or consignee of the goods.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Port fees apply to all goods loaded or off-loaded as described in paragraph 1 above, except as discussed in paragraphs 10 and 13 below.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to Port Fees on their imported goods.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor or subcontractor personnel are subject to Port Fees on their imported goods.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

Not applicable.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Parcel post, ships' provisions, personal baggage, and goods consigned to Vatican City and to representatives of foreign governments are exempt from the port fee.

11. METHOD OF COLLECTION

The tax is paid to the local Customs Office after the Harbormaster's Office has calculated the amount of tax to be charged.

12. BURDEN OF THE TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

U.S. Forces import into Italy large quantities of goods that would be subject to this tax in the absence of tax relief.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

Article XI, paragraph 4, of the NATO SOFA grants free import privileges to the U.S. Forces. While port fees are not customs duties, Article XI, paragraph 12 defines duty as "customs duty and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are not more than charges for services rendered." On 5 June 1968, the Ministry of Merchant Marine (MOMA), in a letter to the MOF, stated that material imported through a seaport to NATO Forces in Italy was exempt from this tax, which could not be considered payment for services rendered. The ruling was based on a broad interpretation of the law granting exemption for goods destined for foreign governments entitled to duty-free privileges; it does not apply to goods arriving by air. However, in practice, goods consigned to and exported by U.S. Forces have been consistently exempted from this tax.

D. VEHICLE CIRCULATION TAX

1. DESIGNATION

Vehicle Circulation Tax (*Tassa di Circolazione sui Veicoli*), Law Decree No. 39 of 5 February 1953 as amended.

2. DESCRIPTION

An annual tax ("*bollo*") on the operation of motor vehicles, including mopeds, registered in Italy, based on the horsepower of any vehicle used for passenger transportation.

An annual additional tax ("*superbollo*") on the operation of diesel-powered vehicles first registered before 3 February 1992.

3. TAX RATE

The annual rates for gasoline-powered and diesel-powered vehicles vary from 125,000 to 1,110,000 *lire* depending on the amount of fiscal hp (the engine's rated horsepower). Vehicles operating on GPL or methane gas are similarly taxed.

4. TAXING AUTHORITY

The circulation tax is a national tax.

5. LEGAL INCIDENCE OF TAX

The vehicle owner is liable for payment.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

U.S. Government contractor/subcontractor-owned vehicles are subject to the circulation tax.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractor/subcontractor-owned vehicles are subject to the circulation tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to this tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

Vehicles licensed abroad and temporarily imported by non-residents of Italy are exempt from the circulation tax for the first year.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

None.

11. METHOD OF COLLECTION

The owner pays the applicable tax at the post office, local branches of the Automobile Club of Italy, or authorized tobacconist shops. Vehicles without a receipt/proof of payment are subject to heavy fines.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, the U.S. Government would be liable for the tax on all official vehicles it operates on the public roads of Italy.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

NATO SOFA, article XI, paragraph 2(c) specifically exempts service (official) vehicles of U.S. Forces in Italy from payment of taxes respecting use of those vehicles on Italian roads. Non-tactical service vehicles receive special AFI official license plates. Bilateral implementing agreements authorize each member of the force or civilian component to register and license three privately owned vehicles with AFI plates. The primary vehicle (AFI white plate) is exempt from payment of the circulation tax. Engine size determines the monthly petroleum ration. The second and third vehicles (AFI black plate) are subject to all applicable taxes and receive no petroleum ration.

E. REGISTRATION TAX

1. DESIGNATION

Registration Tax (*Imposta di Registro* – “IR”), revised unified text Presidential Decree No. 131 of 26 April 1986, as amended by Law Decree No. 155 of 22 May 1993.

2. DESCRIPTION

a. The IR is a tax on certain legal documents and instruments. The tax is paid to the registry office, which records the document in appropriate registers and retains a copy therefor, returning the original to the party requesting registration (article 15). Registration certifies the existence of documents, gives them a date certain as regards third parties, and assures their preservation (article 18). The failure to register when required does not invalidate documents but limits their legal effectiveness before state agencies in certain instances. Unregistered instruments are admissible in proceedings before courts and state agencies, but they are automatically sent to the registry office for registration and the parties are charged the tax and penalties (article 65).

b. For some types of instruments, registration is due within 20 days of the date of execution if drawn up in Italy and within 60 days if executed abroad (article 13). Some examples of include: Real property deeds, real estate leases, real property mortgages, and instruments transferring ownership of motor vehicles (Tariff, Part I).

c. For other instruments, registration is required only "in case of use." The "case of use" occurs when the instrument is presented before a court whether for purposes of litigation or other use, or at any state administrative office (Article 6). Examples of such instruments include: Those concerning the transfer of goods and performance of services subject to the value-added tax (IVA), real estate leases not over 2,500,000 *Lire* per year, labor contracts, and un-notarized receipts and releases (Tariff, Part II).

3. TAX RATE

a. The taxable base for real property deeds is the amount stipulated for the sale for the whole period of the agreement or, if higher, the market value of the property or right transferred. For any kind of exchange, the taxable base is the higher value between the goods exchanged. (article 43)

b. The rates for instruments subject to registration within 20 days of execution (Tariff, Part I) are as follows:

(1) Real property deeds:	8%
(2) Real estate leases:	2% of total due for lease term
(3) Mortgages, assignments of credit:	0.50%
(4) Automobiles:	150,000 to 350,000 <i>lire</i> per document, depending on fiscal hp
(5) Light Trucks:	198,000 to 642,000 <i>lire</i> per document, depending on fiscal hp
(6) Mopeds:	150,000 <i>lire</i> .

c. The rates for instruments subject to registration only “in case of use” (Tariff, Part 2) are as follows:

- (1) Instruments concerning transactions subject to IVA: 150,000 *lire* each (article 1).
- (2) Real estate leases for yearly rent: 150,000 *lire* (article 2-bis).
- (3) Un-notarized receipts and releases: 0.50% (article 5).
- (4) Checking and savings account books: 150,000 *lire* (article 9).
- (5) Labor contracts not subject to IVA: 150,000 *lire* (article 10).

4. TAXING AUTHORITY

The IR is a national tax, administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

All parties to a document that must be registered within 20 days of execution are jointly and severally liable for the tax. For documents subject to registration only “in case of use,” only the person requesting registration is obligated to pay (article 54).

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The IR is applicable to contracts for supplies, services, labor and construction but only “in case of use.” The IR tax is applicable to all rentals and leases of real property.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

There is no distinction in the applicability of the tax to prime or subcontracts and to purchase orders issued by the prime or subcontractor.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Salaries and wages and the paycheck instrument itself are not subject to registration.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

All instruments made within Italy must comply with the IR law. All instruments made abroad (including those of Italian consuls) that transfer property or lease real estate located within Italy are also subject to the IR law (article 2).

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

The following documents are exempt from the registration tax:

- a. Legislative laws and documents
- b. Documents concerning the application, payment and collection of taxes

- c. Insurance contracts
- d. Stock shares
- e. Court decrees
- f. Promissory notes, checks, endorsements

11. METHOD OF COLLECTION

The tax is paid to the registry office at the time registration is requested (article 53).

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

Contracts subject to IVA are not required to be registered except in case of use before courts and state agencies (article 5). U.S. Government contracts for goods and services would be subject to IVA except for the exemption granted by article 72 of Law 633/72. Thus, such contracts are required to be registered only in case of use, as in a lawsuit. In practice, contracting officers and real estate contracting officers do not routinely register U.S. Government contracts. In contracts for goods and services, clauses are inserted to insure their cost is net of such tax. In the event that registration is required, the tax is applied at a fixed rate. In real estate leases, the U.S. Government ordinarily stipulates that the responsibility for registration remains with the lessor. But, if a registered lease is presented, the U.S. Government may pay a portion of the IR (the rate is 2 percent of the yearly rental, usually divided 50/50 between the lessor and the lessee. However, if the contract is with a “public administration,” the private party pays the entire 2 percent). Therefore, as a practical matter, there is no significant IR burden on the U.S. Government for these contracts.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

No relief. The failure to provide IR tax relief is currently of small consequence, because, as explained above, there is no significant burden on the U.S. Government.

E. AUTOMOBILE INSURANCE TAX

1. DESIGNATION

Automobile Insurance tax (*Imposta sui premi assicurativi*), Law No. 1212 of 29 October 1961 and Law No. 990 of 24 December 1969.

2. DESCRIPTION

The automobile insurance tax is an indirect tax charged on automobile insurance premiums. The tax is included in the insurance premiums paid to insurance companies that provide for liability coverage for the length of the insurance contract. The insurance companies issuing such policies must be either licensed to do business in Italy or operate under the European Union's "freedom of association" scheme.

3. TAX RATE

The tax rate is 12.5 percent of the total premium.

4. TAXING AUTHORITY

The automobile insurance tax is a national tax administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

The tax is imposed on all automobile insurance policies issued in Italy.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

U.S. Government contractor/subcontractor-owned vehicles are required to carry automobile insurance in compliance with Italian law and are subject to the tax.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractor/subcontractor-owned vehicles are required to carry automobile insurance in compliance with Italian law and are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax. However, contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may be exempt from payment of the tax to the

same extent as members of the civilian component. Pursuant to a MOF ruling described in paragraph 13 below, such members are exempt from the tax imposed on insurance coverage for vehicles registered with an Allied Forces Italy (AFI) white plate.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Official U.S. government vehicles (tactical vehicles and government vehicles registered with an “AFI Official” plate) are not required to have insurance coverage. Thus, they are not subject to the automobile insurance tax.

11. METHOD OF COLLECTION

Automobile insurance policy holders pay the tax as a portion of their automobile insurance premium. The insurance companies pay the tax to the Ministry of Finance.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, U.S. military and civilian personnel would be subject to the tax on all automobile insurance premiums for their privately-owned vehicles.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

Until October 1999, AFI-registered vehicles were able to operate in Italy carrying only third-party insurance policies issued from outside Italy (“green card” or “touring” policies). These policies were exempt from insurance taxes.

Since October 1999, the Italian insurance regulatory agency, ISVAP, has required U.S. Forces personnel to obtain insurance from companies licensed to do business in Italy or operating under the European Union’s “freedom of association” scheme. These policies include a tax of 12.5 percent imposed on the total premium as well as a contribution for emergency treatment of 10.5 percent imposed on the third-party liability coverage. In June 2001, MOF favorably responded to a USSSO request and granted relief from the 12.5 percent premium tax for white-plated vehicles.⁴

⁴ A 1968 exchange of diplomatic notes and subsequent Ministry of Finance circular letters established the Allied Forces Italy (AFI) POV registration system. Under this system, members of the force or civilian component are permitted to register up to 3 POV’s with AFI plates. The first POV is registered with a white plate and is exempt from customs duties, value-added (IVA) taxes, the Italian road tax, and now, the insurance premium tax. It is also allocated tax-free POL rations. The second and third POV’s are registered with a black plate. These vehicles are exempt from customs duties and IVA taxes, but are not exempt from the road tax and are not allocated tax-free POL rations.

G. STAMP TAX

1. DESIGNATION

Stamp tax (*Imposta di Bollo*), Presidential Decree No. 642 of 26 October 1972 (including Attachment A, containing the Tariff, Part I and Part II, and Attachment B, containing the Table), as amended by Presidential Decree No. 955 of 30 December 1982; Law No. 405 of 29 December 1990; Law No. 428 of 29 December 1990; Law No. 537 of 24 December 1993; and Law No. 549 of 28 December 1995. The Tariff, Part I, is now attached to the Ministry of Finance Decree of 20 August 1992, which incorporates the changes set forth by Law Decree No. 333 of 11 July 1992, converted into Law No. 359 of 8 August 1992.

2. DESCRIPTION

a. The stamp tax is an indirect tax on certain instruments (*i.e.*, acts, documents and books of account) of a civil, administrative, or judicial nature. Tariff, Part I, lists instruments that are taxed “from the beginning” if they are executed in Italy. Tariff, Part II lists instruments which are taxed “in case of use,” which occurs when the act, document, or book of account is filed with the Registry Office (*Ufficio del Registro*). Instruments listed in the Table attached to D.P.R. 642/72, instruments declared exempt by special laws, legislative documents, and administrative acts not expressly reported in the Tariff are not taxed.

b. Instruments taxed “from the beginning”:

- (1) Instruments prepared or received by public notaries
- (2) Private deeds
- (3) Banking contracts
- (4) Appeals, claims and petitions to State agencies
- (5) Promissory notes, personal checks, bank money orders
- (6) Receipts, bills, and invoices for amounts over 150,000 *lire*
- (7) Books of account that must be maintained according to law
- (8) Documents pertaining to companies
- (9) Court documents

c. Instruments taxed “in case of use”:

- (1) Receipts for delivery of merchandise
- (2) Leases
- (3) Checks and promissory notes executed abroad
- (4) Any document for which the tax is not due "from the beginning"
- (5) Any document for which there is no exemption

d. Instruments exempt from the tax:

- (1) Documents related to criminal proceedings
- (2) Documents pertaining the assessment and collection of taxes (taxpayer’s appeals excepted)
- (3) Invoices and other documents regarding payment of operations subject to IVA tax

- (4) Court documents related to labor cases and leases falling under the fair rent law
- (5) Passport, identification cards, and equivalent documents
- (6) Labor and employment contracts (individual or collective)
- (7) Receipt of wages, pensions, allowances, awards and any other disbursement related to subordinate employment
- (8) Customs documents

3. TAX RATE

The Tariff establishes the applicable tax rate for every instrument. The most common tax rate for official papers and documents is 20,000 *lire*. The rate is increased for court documents (above 100,000 *lire* in some courts). The same rate is minimal for some bank instruments like the bank checks. Some instruments are taxed proportionately to the amount of money involved in the document. Taxes due "in case of use" are based on the rate applicable at the time the instrument is actually used.

4. TAXING AUTHORITY

The stamp tax is a national tax administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

a. The following are jointly and severally liable for the payment of the tax and any surtax and penalty thereof:

(1) All the parties that execute, receive, accept, negotiate, make reference to, or use as attachments an instrument not in compliance with the provisions on stamp tax.

(2) All parties making use of an instrument not subject to payment of the tax "from the beginning" without having affixed the prescribed stamp.

b. D.P.R. 642/72 makes null and void any agreement contrary to the provisions of the law, including any covenant charging the tax and related penalties to the defaulting party or to the party that caused the need to use an irregular act or document.

c. In the relationships with the Public Administration, the stamp tax, if any is due, must be paid by any party other than a government agency, notwithstanding any covenant providing for a different responsibility for payment.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

A case-by-case review of the Tariff and the Table attached to D.P.R. 642/72 is required in order to determine if the instrument reducing a contract in writing is subject to stamp tax, and if so, when, and in what amount.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

When applicable, there is no distinction regarding prime contracts and subcontracts.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

The tax applies to instruments executed in the Italian territory. Certain instruments introduced into Italy from abroad are subject to the tax (see the Tariff to determine if the tax is due, when, and in what measure).

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

The following are the most important exemptions affecting the U.S. Forces:

- a. Customs documents
- b. Instruments dealing with labor contracts and related court actions
- c. Instruments related with tax assessment and collection
- d. Receipts, bills and invoices for amounts below 150,000 *lire*
- e. Receipts for payment of condominium fees, regardless of the amount involved

11. METHOD OF COLLECTION

a. The stamp tax is paid in accordance with the guidelines set out in Tariff. There are three types of payments:

(1) Ordinary payment consists of using stamped paper (“*carta bollata*”). The amount of the tax is indicated on the paper. If the stamp tax to be paid is higher than the amount indicated on the paper, stamps can be affixed to pay for the difference.

(2) Extraordinary payment consists of using paper stamps (so called “*marche da bollo*”), rubber-stamping or an impressed seal.

(3) Virtual payment consists of making the payment to the Registry Office (*Ufficio del Registro*) or other authorized offices or to a postal account. In such cases the receipt of payment must be attached to the instrument it refers to.

b. Both stamped paper and stamps are sold at tobacco stores and other authorized sale points. For instruments subject to the tax “from the beginning,” affixing of paper stamp, rubber stamping, or impressing the stamp seal must precede the execution of the act or document, or the entry in the book of account. Paper stamps must be canceled in one of the following ways: punching; signing it by either party; putting the date of execution on the stamp; or affixing a seal on the paper and the stamp.

12. BURDEN OF THE TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

a. Article 6 of the Table attached to D.P.R. 642/72 provides for exemption from the tax in favor of receipt, bills, invoices and other documents regarding payments of operations/transactions subject to IVA tax. According to commentaries to the law, the following documents do not enjoy the tax exemption under article 6 above:

(1) Documents regarding operations/transactions outside the area of application of tax;

(2) Documents regarding operations/transactions not subject to IVA tax (so called "*operazioni non imponibili*", *i.e.*, non assessable), unless the exemption from the stamp is established by another article of the Table;

(3) Documents regarding operations/transactions exempt from IVA tax, unless the exemption from the stamp is established by another article of the Table.

b. Article 72 of D.P.R. 633/72 (the Presidential Decree regulating IVA tax) provides that the supply of goods and performance of services to military commands of member States, international military headquarters and instrumentalities thereof located in Italy pursuant to the North Atlantic Treaty in the performance of their institutional functions are not subject to the IVA tax because they must be considered equivalent to those operations/transactions that are not assessed under articles 8, 8-bis, and 9 of the IVA law. Technically, receipts, bills, and invoices for amount over 150,000 *lire* issued to U.S./NATO Commands are not exempt from the stamp tax because the related operations/transactions are not subject to IVA. While in practice the U.S. Forces do not generally pay the tax in these circumstances, occasionally commands have paid the tax because the Italian Authorities refused to receive an instrument lacking the paper stamp.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

Members of the civilian component and dependents of members of the force and civilian component are required to obtain a sojourn permit within 8 days of arrival in Italy. Generally speaking, the application for such permit must be on stamped paper. Some Italian Police Authorities (*Ufficio Stranieri* at the *Questura*) have required that the U.S. individuals above have their application for sojourn permit on stamped paper. However, Article III of the 20 October 1954 Memorandum of Understanding (MOU) relating to the Application in Italy with regard to U.S. Forces of the Bilateral Infrastructure Agreement (BIA) provides that the Italian Authorities will issue to civilian personnel and dependents a residence permit without payment of fees. USSSO efforts to resolve this issue were finally successful. On 22 December 1992, the Italian Ministry of Interior (letter 559/443/1000894/J7/29/5/1 Div.) concurred with USSSO's position that, based on the 20 October 1954 BIA, sojourn permits for members of the civilian component and dependents of the civilian component and members of U.S. Forces were not subject to the stamp tax. Other than applications for sojourn permits, the GOI grants no specific relief from this tax.

H. REFUSE COLLECTION TAX

1. DESIGNATION

a. Garbage Collection Tax (*Tassa per lo Smaltimento dei Rifiuti Solidi Urbani Interni*), set forth by Royal Decree No. 1175 of 14 September 1931 as amended. Legislative Decree No. 507 of 15 November 1993 (issued upon delegation under article 4 of Law No. 421 of 23 October 1992), as modified by Law No. 146 of 22 February 1994 and Law No. 549 of 28 December 1995.

b. Province Tax for the Exercise of Environmental Functions (*Tributo provinciale per l'esercizio delle funzioni di tutela, protezione e igiene dell'ambiente*), set forth by Legislative Decree No. 504 of 30 December 1992.

c. Special Tax for Storing Solid Refuse in Dumps (*Tributo speciale per il deposito in discarica dei rifiuti solidi*), set forth by article 3, paragraphs 24-41 of Law No. 549 of 28 December 1995.

2. DESCRIPTION

a. Municipalities set the garbage collection tax to pay for the collection, transport and disposition of internal urban solid garbage. Each municipal administration establishes garbage service by exclusive municipal regulation ("*regime di privativa*") defining the extent and the method of the service within the municipal boundaries. The tax is based on the occupation or possession of quarters and outdoor areas used for any purpose (excluding outside appurtenances and accessory areas attached to houses, other than undeveloped land or "green areas"), located in the municipality where the service has been instituted and is effective, or in any case where the service is rendered in a continuous manner. For outdoor areas, the tax is calculated based on 50 percent of the real surface area.

b. On 1 January 1993, a yearly provincial tax, calculated on the same surface areas of the municipal garbage tax, was established to help provincial administrations pay for managing refuse disposal.

c. On 1 January 1996, a special national tax, calculated based on the amount of refuse delivered to a dump, was established to encourage reduced refuse production, improved recycling, and production of energy from refuse.

3. TAX RATE

a. Municipal Garbage Tax:

(1) The municipal garbage collection tax regulations assess the tax based upon classification of categories of quarters and areas; modalities of application of parameters for assessment of the rates; reduced rates; and special reductions. Municipalities must include these categories for assessing the tax:

(a) museums, libraries, quarters used for cultural, political or religious activities, theaters, schools, gyms, storage areas and areas where military machinery and equipment are

stored;

(b) commercial centers with exhibition areas, tourist-recreational areas, such as camping, bathing establishments, and the like;

(c) quarters and areas used as houses by families or other groups of people, including hotels;

(d) quarters used for the services sector, including sport and recreational centers;

(e) quarters and areas used for artisan, industrial or commercial activities, with the exception of areas producing waste not similar to urban refuse;

(f) quarters and areas used as bars, restaurants or shops for the sale of food and the like, with the exception of areas producing waste not similar to urban refuse.

(2) The tax is paid annually, based on the surface of the quarters or areas served and the designated use of such surface, and total revenues cannot exceed the cost of the disposal service.

(3) The tax must be computed in one of the following ways:

(a) based upon the ordinary average quantity and quality (for unit of taxable surface) of refuse that can be produced in quarters and areas depending on the use to which they are subject and cost of disposal; or

(b) in municipalities with less than 35,000 inhabitants, based upon tariffs commensurate to the real production of refuse and cost of disposal.

The municipal regulation may apportion the tax on quarters used as houses and businesses between the two uses, based on the surface area dedicated to, and applicable tax rate for, each use.

b. Province Tax: In October of each year, the provincial administration establishes the provincial tax rate for the coming calendar year at between 1 percent and 5 percent of the applicable garbage collection tax. If the provincial administration issues no order in October, the previous year's rate remains unchanged.

c. Special Tax: By 31 July each year, the Regions establish, within national minimum and maximum limits (2 *lire* to 50 *lire*), the tax rate for each category of refuse. If the Regions do not establish the rate by 31 July, the previous year's rates remain unchanged. The tax is calculated by multiplying the quantity of refuse taken to a dump (reflected by required refuse disposal records) by the applicable tax rate, and applying a corrective coefficient which takes into consideration specific weight, quality and conditions of the refuse.

4. TAXING AUTHORITY

a. The garbage collection tax is a municipal tax. The tariffs are set by 31 October and become effective starting with the next calendar year. If the municipal administration does not establish the tariffs within the prescribed term, the previous year's tariffs remain in force. Municipal administrations have investigative powers, so that they can verify data reported in the

taxpayer's statements or find information regarding taxpayers that did not file the statements necessary for the assessment of the tax. These powers include the possibility to inspect areas and quarters to determine the surface and the use. In areas and quarters covered by immunity and military secrecy, the inspections are substituted by a statement rendered by the person responsible for the entity occupying the quarters or areas.

b. The province tax is assessed and collected by municipal administrations that retain 0.30 percent of the revenues and transfer the remaining amounts to the province administration.

c. The special tax is a regional tax. "Special Statute" Regions (*Region a Statute Speciale* and the autonomous Provinces of Trento and Bolzano) will issue the provisions on the matter according to their respective statutes. The Regions are the ultimate beneficiaries of the revenues with the exception of 10 percent, which is assigned to Provinces. The revenues must be used by the Regions for environmental programs (recycling, production of energy with refuse, cleaning of contaminated areas, creation of protected areas, and funding of regional agencies for environmental protection).

5. LEGAL INCIDENCE OF THE TAX

a. The garbage collection tax is due from those who occupy or possess quarters or areas subject to the tax. All family members or those who use quarters or areas subject to the tax are jointly and severally liable for the payment. Occupants or possessors of places located outside the municipal boundaries covered by the collection service must use the public urban service by taking the urban refuse and the refuse similar to urban refuse to the nearest collection points.

b. The province tax is due by the same individuals subject to the payment of the garbage collection tax.

c. The special tax is due by the owner/manager of the plant where refuse receives final treatment. He is obligated to pass the legal incidence of the tax on to the individual conveying the refuse to the disposal plant. However, the financial burden for the tax is passed on the producer of the refuse.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

U.S. Government contractors and subcontractors are subject to the tax.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

The garbage collection tax applies to quarters and areas within the jurisdiction of each municipality. The province tax applies to quarters and areas within the jurisdiction of each province.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

a. Garbage Collection Tax:

(1) Reductions:

(a) Taxes for areas not covered by the exclusive regime service are calculated in relation to the distance from the nearest collection point, and may not exceed 40 percent of the tariff.

(b) Garbage service not performed where the taxpayer has his place of residence or his activity, or performed in serious violation of the municipal regulation (*e.g.* distance, size of the collection drums, frequency of collection) is taxed at 40 percent of the tariff.

(c) Garbage service provided only seasonally is taxed proportionately to the period in which the service is performed.

(d) The garbage collection tax does not cover special, toxic, or noxious refuse, which must be disposed of by the producer at the producer's expense and in conformity with applicable legislation. The municipal regulation may provide for percentages of reduction (of surface area subject to the garbage collection tax) in relation to certain categories of activities that generate special, toxic, or noxious refuse.

(e) The tax may be reduced by not more than one third (1/3) for: houses with single occupants; houses subject to seasonal, limited or discontinuous use if that fact is reported in the taxpayer's statement or any variation thereof; quarters other than houses and areas subject to seasonal or non continuous (but recurring) use, resulting from the license or authorization by competent authorities.

(2) Exclusions:

(a) Outside appurtenances and accessory areas (other than green areas) attached to houses.

(b) Quarters and areas that cannot produce refuse because they are unusable, if that fact is reported in the taxpayer's statement and confirmed by the municipality.

(c) Areas not required to use the municipal service because of law, regulation, administrative orders (*e.g.*, related to health, environment, or civil protection) or international agreements regarding entities of foreign states.

(d) Common areas of condominiums.

(3) Areas subject to the tax by municipal decision: Municipal administrations may assess the tax on outside areas, exceeding 200 square meters, used as green areas. The tax is calculated based on 25 percent of the real surface area exceeding 200 square meters.

(4) Special reductions: Municipal administrations may establish by regulation, special conditions and exemptions from the tax.

b. There are no exemptions, exclusions, or reduction from the provincial tax.

c. There are no exemptions or exclusions from the regional tax. Refuse which is incinerated, or residual refuse produced by a selection and recycling plant is taxed at the reduced rate of 20 percent.

11. METHOD OF COLLECTION

a. The garbage collection tax is due from the first day of the next bimonthly period following the date on which the service begins. When quarters or areas are no longer occupied or possessed, the taxpayer is entitled to a refund effective from the first day of the next bimonthly period following the date on which the taxpayer reports the termination of occupation or possession, as confirmed by municipal authorities. The individual subject to the tax must file a statement with the municipal authorities no later than the 20th of the month of January immediately following the beginning of occupation or possession of quarters or areas subject to the tax. This statement is valid for the subsequent years if the conditions for the application of the tax remain unchanged. Otherwise, variations must be reported to the municipal authorities, so that the tax assessment can be changed accordingly. The statement is signed and filed by one of the individuals jointly liable for the payment or by the legal or contractual representative of the entity subject to the tax. The tax, any additional or accessory charges and any penalty connected to violations of the law are included in tax rolls. The tax is collected in four bimonthly installments. Based on serious reasons and if there are taxes in arrears to be paid, the taxpayer can be authorized by the mayor to break his payment into eight installments. Interest must be paid in case of late payments. Refunds are provided in case of errors, duplications or overcharges based on procedures described by the law in detail. Surtaxes and penalties are imposed in case of lack of or incomplete statement or variation. The tax bill is issued and collected by a delegated tax collector, normally a bank.

b. The province tax is assessed and included in the tax rolls by the municipalities together with the garbage collection tax. The province tax also has the same assessment, collection, and penalty rules as the garbage collection tax. The municipal administration is entitled to a commission in the measure of 0.30 percent of the amounts collected. The law does not establish a minimum or a maximum amount for the commission.

c. The special tax is paid by the owner/manager of the dump within a month from the expiration of the quarter in which the refuse was taken to the dump. Regional laws regulate methods of payment of the tax and filing of the tax declaration. These laws regulate also assessment, collection, refunds and appeals.

12. BURDEN OF THE TAX ON THE U.S. GOVERNMENT IN ABSENCE OF RELIEF

a. In absence of relief, the U.S. Government would be liable to pay the tax on all quarters and areas that are subject to the tax. When U.S. installations contract with private companies for trash removal, and thus receive no service from the municipality, the tax burden imposed would be substantial. This burden would have the nature of a tax rather than of a service charge. The problem is even more complicated for quarters or areas located outside military installations because these places are rented from private owners. In theory, if these places produce urban refuse and are located within the municipal boundaries served by the collection, it would be mandatory to use the municipal service. In such case, if the tax charged is not commensurate with the refuse collected, the burden would have the nature of a tax rather than of a service charge. On the other hand, if the tax charged is commensurate with the refuse collected, the burden would be reasonable.

b. The special tax may cause an increase in the bills paid by the U.S. Government for disposal of refuse through a dump. However, the amount of the tax may not appear on the bill presented to the U.S. Government. USSSO recommends bases obtain an itemized bill, so that the amount of the tax paid by the contractor disposing the refuse for the U.S. Government to the dump owner/manager can be clearly identified.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. Areas under U.S. Government control are not excluded from the tax. However, in most cases, the garbage tax can be considered a fee for a service rendered. Even in case of exclusive service by the municipality, or, furthermore, in case the service is not rendered, the nature of the collection does not change. The legislation provides some remedies in case the service is not rendered, but it is and it remains a fee, not a tax.

b. If services are not used or if the tax charged for the services exceeds the value of service, tax bills received from the tax collector should be immediately appealed to competent Italian authorities.

c. If services are used and the tax reflects the value, the tax must be paid like any other service received. Therefore, make a case by case analysis to determine if the tax corresponds to the refuse produced and the service received.

d. Under Italian law, areas and quarters covered by immunity and military secrecy are not subject to municipal inspections aimed at assessing the tax. Instead, the person responsible for the entity occupying the quarters or areas makes a substitute statement to the municipal authority. Therefore, U.S. authorities should oppose any attempt by municipal authorities to inspect classified areas and notify USSSO immediately.

e. The above analysis also applies to the provincial tax.

f. The calculation of the special tax is based on the real quantity of refuse taken to the dump. If refuse originating from the U.S. Forces is not mixed with the refuse originating from other entities, the tax is assessed in relation to the quantity and quality of refuse produced, hence, a charge for services rendered, which should be paid.

I. TELEVISION TAX

1. DESIGNATION

The radio and television subscription tax (*Abbonamento Radioiffusione*), Royal Decree No. 246 of 21 February 1938, converted into Law No. 880 of 4 June 1938, with subsequent amendments.

2. DESCRIPTION

a. Any person in Italy who possesses a television set that receives, or with modifications can receive, electronic television signals broadcast in Italy pays the subscription tax.

b. In theory, the tax is a service subscription fee to augment the operating budget of *Radio Audizioni Italiane* (RAI, the Italian public broadcasting company). However, the tax is charged based on mere possession of the equipment, not whether you actually receive RAI broadcasting. Thus, the tax is actually more of a property tax than a service fee.

3. TAX RATE

The tax is paid by annual subscription. The current annual rate is 175,000 *lire*.

4. TAXING AUTHORITY

The television tax is a national tax.

5. LEGAL INCIDENCE OF THE TAX

All owners of televisions.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Not relevant.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

Not relevant.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements are eligible for an exemption to the same extent as civilian component members as discussed in paragraph 13 below.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

No distinction.

10. SIGNIFICANT EXEMPTIONS

Any television set on U.S. installations (including barracks/billets) is exempt from the tax under article 18 of Royal Decree No. 246 of 21 February 1938, which exempts military hospitals, soldiers' homes (*casa del soldato*), servicemen's clubs, and devices employed for military use.

11. METHOD OF COLLECTION

Collection of the national tax is the responsibility of the Ministry of Communication, which has delegated the function to RAI. For residential television, billing of the subscription tax usually arrives by mail to the household. The tax is payable by postal money order, with the receipt as proof of payment.

12. BURDEN OF THE TAX ON THE U.S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of the relief provisions of law the U.S. Government would be liable for the tax on all military and private televisions which receive, or with modification, are capable of receiving Italian broadcasting.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. While the U.S. Government asserted the tax was a property tax for which exemption was due under the NATO SOFA, article X, paragraph 1, earlier Italian Supreme Court (*Corte di Cassazione*) opinions rejected that view, ruling the tax was a service fee for the public benefit and use of nationally regulated airwaves. In 1969, the U.S. Government conceded the issue and instructed U.S. personnel to pay the tax.

b. However, USSSO pursued direct relief through the MOF, first obtaining a ruling that military radios and televisions, and other devices located on military installations, were exempt under Article 18 of the basic law. On 29 April 1993, MOF ruled that members of the force and civilian component under the NATO SOFA were exempt from the television tax. It is important to note, however, that the basis of this ruling is that U.S. televisions (NTSC) are unable to receive the Italian broadcasting signal (PAL). Thus, members of the force and civilian component who have televisions able to receive the PAL signal are subject to the tax.

J. TAXES ON PETROLEUM, OIL, AND LUBRICANT (POL) PRODUCTS

1. DESIGNATION

a. Value added tax (IVA) applies to every type of POL. See the IVA discussion in section A, above.

b. Excise Tax (*Accisa*), Law No. 427 of 29 October 1993, as amended by Legislative Decree No. 504 of 26 October 1995.

2. DESCRIPTION

The excise tax is an indirect tax on production or consumption, referred to as the production tax (*Imposta di Fabbricazione*) or consumption tax (*Imposta di Consumo*) and corresponding border surtax (*Sovraimposta di Confine*) or consumption surtax (*Sovraimposta di Consumo*). Generally, the tax originates when a product subject to the tax is manufactured or imported into Italy, and the tax is owed when the product is put into commerce in Italy.

3. TAX RATE

The following current rates are subject to periodic changes due to fluctuations in the price of oil:

High-test (super) gasoline	1,200 <i>lire</i> /liter	+20% IVA
Regular & unleaded gasoline	1,005 <i>lire</i> /liter	+20% IVA
Diesel fuel (<i>gasolio</i>)	748 <i>lire</i> /liter	+20% IVA
Heating oil (<i>nafta</i>)	748 <i>lire</i> /liter	+20% IVA

4. TAXING AUTHORITY

The excise tax, production tax, consumption tax, and value added tax (IVA) on mineral products are national taxes.

5. LEGAL INCIDENCE OF THE TAX

The producer, importer, or utility provider is liable for payment, but passes all incidence of the tax on to the consumer.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax applies to contracts for the supply of POL and natural/propane gas.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may purchase tax-free POL coupons as discussed in paragraph 13 below.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

a. See IVA discussion in section A, above.

b. Excise tax: Article XI of the NATO SOFA provides that the receiving state will arrange for delivery of fuel, oil, and lubricants for use in service vehicles, aircraft, and vessels free of all duties and taxes; annexes to the BIA specifically cover tax relief procedures for petroleum products.

c. Article 6 of Law No. 32 of 19 March 1973 exempts from tax products supplied by Italian national firms to military commands present in Italy pursuant to the North Atlantic Treaty, within limits fixed annually by a Ministry of Finance decree in relation to the needs of the commands.

d. D. Lgs. 427/93 exempts from the excise tax Italian armed forces and the armed forces of any contracting party to the North Atlantic Treaty. Article 15 provides the exemption will apply based on conditions and with the modalities established by national legislation until a uniform fiscal regulation is adopted within the EU.

11. METHOD OF COLLECTION

The tax is generally paid by the producer before the goods are introduced into commerce, except when the tax is greater than the value of the goods (*e.g.*, POL) in which case the tax is imposed when the goods are sold.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

The U.S. Forces in Italy purchase and consume substantial quantities of POL products. In the absence of relief, the various taxes upon POL products would amount to an extremely significant tax burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. See IVA discussion in section A, above.

b. Excise tax: Italian Law exempts U.S. commands from payment of the excise tax for POL obtained directly from the producer. Before delivery, the NAVSUPACT Tax Free Administration Officer requests a tax exemption for a specified quality and quantity of POL from the Ministry of Finance. MOF in turn authorizes the producer to furnish the requested POL to U.S. Forces tax exempt.

c. Italian Law also exempts POL obtained from retail outlets. The U.S. Government requests the MOF to approve a ceiling ("plafond") for the estimated amount of POL required for a specified period. The MOF authorizes a producer to issue tax-free coupons to U.S. Forces up to the limit of the ceiling. U.S. Forces members may purchase private use "P" coupons for AFI white-plated privately-owned vehicles, up to maximum of 400 liters per automobile (200 liters for motorcycles) per month, depending on the engine horsepower. Official use "G" coupons may be issued to personnel traveling on official business in Italy for use in official, rental, or privately-owned vehicles. Coupons are exchanged for POL at retail gas stations. At the end of the period, the U.S. Government reports to the MOF the amount of POL actually used.

K. TAXES ON ELECTRICITY

1. DESIGNATION

a. Value added tax (IVA) applies to every unit of electricity. See the IVA discussion in section A, above.

b. Consumption Tax (*Imposta di Consumo*), Law No. 32 of 19 March 1973, as amended.

c. Additional taxes (*Addizionale Erariale*), Law Decree No. 38 of 28 February 1981; Law Decree No. 51 of 28 November 1988, converted with modifications to Law No. 20 of 27 January 1989; Law Decree No. 332 of 30 September 1989, converted with modifications to Law No. 384 of 27 November 1989; and Law Decree No. 90 of 27 April 1990, converted with modifications into Law No. 165 of 26 June 1990, as amended.

2. DESCRIPTION

a. See IVA discussion in section A, above.

b. The Consumption Tax is a tax on the use of electricity.

c. Additional taxes are local and regional taxes imposed electrical consumption. They were first introduced in 1981 to supplement local (municipal) and regional budgets. Additional taxes are further regulated by Law Decree No. 151 of 13 May 1991 and Law No. 85 of 22 March 1995. D. Lgs. 504/95, article 60 provides that the Title II provisions on State consumption taxes on electricity also apply to additional taxes when the additional taxes follows the same modalities as the State consumption tax.

d. Law No. 427 of 29 October 1993, article 66, paragraph 21, also regulates additional taxes on electricity supplied to or produced by U.S./NATO commands.

3. TAX RATE

a. Private use/residential (3kw line):

<u>Lire Cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
9.10	Kwh	Consumption (<i>Imposta de Consumo</i>)	10%
28.00	Kwh	Local additional (<i>Addizionale Comunale</i>)	10%
8.00	Kwh	State additional (<i>Addizionale Erariale</i>)	10%

b. If monthly consumption remains below 220 Kwh/month, the following exemptions apply.

<u>Power</u>	<u>Exemption</u>	<u>Extent of exemption</u>
1.5 KW of power	Initial 150 Kwh/month	Fully exempt if monthly consumption is 150 Kwh or below
	From 150 to 0 Kwh	Kwh exempted are progressively reduced in a number equal to the number of Kwh exceeding 150
3 KW of Power	Initial 220 Kwh/month	Fully exempt if monthly consumption is 220 Kwh or below
	From 220 to 0 Kwh	Kwh exempt are progressively reduced in a number equal to the number of Kwh exceeding 220

c. Industrial use/all others:

<u>Lire cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
4.10	Kwh	Consumption (<i>Imposta Eriale</i>) up to 200,000 Kwh/mo	20%
2.45	Kwh	Consumption (<i>Imposta Eriale</i>) over 200,000 Kwh/mo	20%
6.50	Kwh	Local additional (<i>Addizionale Locale</i>) on the initial 200,000 Kwh/mo	20%
11.50	Kwh	Provincial additional (<i>Addizionale Provinciale</i>) on the initial 200,000 Kwh/mo	20%
7.00	Kwh	State additional (<i>Addizionale Erariale</i>) up to 30 Kwh/mo	20%
10.50	Kwh	State additional (<i>Addizionale Erariale</i>) from 31 Kwh to 3.000 Kwh/mo	20%
4.00	Kwh	State additional (<i>Addizionale Erariale</i>) over 3,000 Kwh/mo	20%

The tax rates are periodically adjusted.

4. TAXING AUTHORITY

a. The excise tax, production tax, consumption tax, and value added tax (IVA) on the supply of energy are national taxes.

b. The State Additional tax is a supplemental tax administered by the Ministry of Finance and Ministry of Interior; however, revenues are used to supplement the budgets of municipalities and provinces.

c. Municipal and provincial additional taxes are administered directly by the municipality and the province where the consumer is located.

5. LEGAL INCIDENCE OF THE TAX

The producer, importer, or utility provider is liable for payment of the tax, but passes all incidence of the tax on to the consumer.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax applies to contracts for the supply of electricity.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

a. Electricity provided to military commands present in Italy pursuant to the NATO Treaty is exempt from consumption, additional, and IVA taxes. For IVA taxes, see the IVA discussion in section A, above.

b. State Consumption Tax: Law No. 427/93, article 66, paragraph 21, exempts electricity supplied to military commands of member states, international military headquarters, and instrumentalities stationed in Italy pursuant to the North Atlantic Treaty; the exemption also applies to electricity generated by the commands or instrumentalities.

c. Electricity supplied to U.S. Government-owned, consigned, or leased property (including living quarters of members of the force and civilian component) is also exempt provided that the U.S. Government contracts for electricity directly with the utility.

d. Additional Tax: Law 427/93, article 66, paragraph 21 exempts electricity supplied to U.S. commands in Italy pursuant to Law 32/73, article 6. The exemption also applies to U.S./NATO leased buildings if contracted directly with the utility. Under the express and implied exemptions of Law 427/93, command-sponsored exemption programs obtain exemptions for members of the force and civilian component by having the individual contracts registered with the command (usually Services/MWR) instead of the individual.

11. METHOD OF COLLECTION

The tax is paid to the state/region/province/commune by the utility provider and recouped from the consumer.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, the various taxes upon electrical energy would amount to an extremely significant tax burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. See IVA discussion in section A, above.

b. State Consumption Tax. U.S. Government entities will be exempt from the state consumption tax if the contract for electricity is made directly between the U.S. Government and the utility provider.

c. Additional Tax. Command-initiated utility tax exemption programs obtain exemption from payment of the additional tax by personnel employed by U.S. Government entities by having individual contracts registered in the name of the command (usually Services/MWR) instead of the individual member.

L. TAXES ON NATURAL (METHANE) AND PROPANE (LPG) GAS

1. DESIGNATION

a. Value added tax (IVA) applies to every unit of gas. See IVA discussion in section A, above.

b. Excise Tax (*Accisa*), Law No. 427 of 29 October 1993, as amended by Legislative Decree No. 504 of 26 October 1995.

c. Regional additional taxes (*Addizionale Regionale all'Imposta di Consumo*), Law No. 158 of 14 June 1990 and Legislative Decree No. 398 of 21 December 1990.

d. Substitutive tax (*Imposta sostitutiva dell'addizionale*), Law No. 158 of 14 June 1990 and Legislative Decree No. 398 of 21 December 1990.

2. DESCRIPTION

a. See IVA discussion in section A, above.

b. The excise tax is an indirect tax on production or consumption, referred to as the production tax (*Imposta di Fabbricazione*) or consumption tax (*Imposta di Consumo*) and corresponding border surtax (*Sovraimposta di Confine*) or consumption surtax (*Sovraimposta di Consumo*). Generally, the tax originates when a product subject to the tax is manufactured or imported into Italy, and the tax is owed when the product is put into commerce in Italy.

c. The regional additional tax and the substitutive tax are imposed upon methane gas used as heating oil in the so-called "Ordinary Statute" Regions (*i.e.*, all Italian Regions except: Friuli-Venezia Giulia; Trentino-Alto Adige; Valle d'Aosta; Sicilia and Sardegna).

d. The substitutive tax (*Imposta sostitutiva dell'addizionale*) is due from consumers exempt from the regional additional taxes.

3. TAX RATE

a. Natural gas for residential use (cooking/hot water) per year:

<u>Lire cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
86.00	mc	consumption (<i>Imposta di Consumo</i>)	10%

b. Natural gas for residential use (autonomous heating) up to 250mc/yr.:

<u>Lire cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
151.00	mc	consumption (<i>Imposta di Consumo</i>)	20%

c. Natural gas for residential use (autonomous heating) over 250mc/yr.:

<u>Lire cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
332.00	mc	consumption (<i>Imposta di Consumo</i>)	20%

d. Natural gas for all other uses other than residential (*i.e.*, industrial):

<u>Lire cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
332.00	mc	consumption (<i>Imposto di Consumo</i>)	20%

e. LPG (propane) gas for residential use:

<u>Lire cost</u>	<u>Unit</u>	<u>Type of Tax</u>	<u>IVA Rate</u>
360.00	mc	consumption (<i>Imposto di Consumo</i>)	20%

f. Each Ordinary Statute Region establishes through regional law the rate of the additional tax within the following limits:

<u>Minimum</u>	<u>Maximum</u>
10 lire/mc	50 lire/mc

4. TAXING AUTHORITY

a. The excise tax, production tax, consumption tax, and value added tax (IVA) on the supply of natural gas are national taxes.

b. The State Additional tax is a supplemental tax administered by the Ministry of Finance and Ministry of Interior; however, revenues are used to supplement the budgets of municipalities and provinces.

c. Municipal and provincial additional taxes are administered directly by the municipality and the province where the consumer is located.

5. LEGAL INCIDENCE OF THE TAX

The producer, importer, or utility provider is liable for payment, but passes all incidence of the tax on to the consumer.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax applies to contracts for the supply of natural/propane gas.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Gas provided to military commands present in Italy pursuant to the North Atlantic Treaty is exempt from consumption, additional, and IVA taxes.

11. METHOD OF COLLECTION

The tax is paid to the state/region/province/commune by the utility provider and recouped from the consumer.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, the various taxes upon natural and propane gas would amount to an extremely significant tax burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. Paragraph 21, chapter II, section III, article 66 of Law No. 427/93 provides that the supply of water and energy (in any form), and the transfer of housing related goods and services necessary to implement institutional functions of armed forces organized in Italy pursuant to the

North Atlantic Treaty, are exempt from IVA taxation under paragraph 3(2), article 72, D.P.R. 633/72. The exemption applies even though the supplies are provided directly to personnel employed by these commands as long as commands acknowledge the economic burdens as an institutional expense. This provision was aimed at utility providers or regional tax officials who denied the IVA exemption to U.S. Government leased or consigned housing located off installation. As long as the utility contract is with the U.S. Government versus the individual consumer, the IVA exemption is allowed.

b. Consequently, U.S. commands have initiated utility tax exemption programs in which individual contracts are registered with the command (usually Services/MWR) instead of the individual member.

c. Excise tax. Article 15 of Law No. 427/93 exempts the armed forces of any contracting party to the North Atlantic Treaty, national forces within the ambit of NATO, and diplomatic or consular missions from payment of the excise tax.

M. TAXES ON THE USE OF AIRPORTS OPEN TO CIVILIAN AIR TRAFFIC AND FREIGHT TAX

1. DESIGNATION

a. Rules on the Taxes for the use of Airports Open to Civilian Air Traffic (*Diritti per l'uso degli Aerodromi Aperti al Traffico Aereo Civile*).

(1) Law No. 324 of 5 May 1976, as amended by Law No. 25 of 15 February 1985 and Law No. 316 of 2 October 1991.

(2) The tax rate is revised and adjusted almost yearly by Presidential or Ministerial Decrees. The Ministerial Decree of 13 Aug 1998 is currently in place for tax rate.

(3) Article 10, paragraph 10, of Law No. 537 of 24 December 1993, establishes the criteria for determining the tax rate.

b. State tax additional to the landing and taking off fees (*Imposta Erariale Addizionale*, commonly known as the "Noise Fee"). Article 10 of Law Decree No. 90 of 27 April 1990, converted into Law No. 165 of 26 June 1990. Rate established by Presidential Decree No. 434 of 26 August 1993.

c. State tax on goods loaded or off-loaded in airports performing commercial activities (*Tassa Erariale di Sbarco e Imbarco sulle Merci Trasportate per Via Aerea*). Law Decree No. 47 of 28 February 1974, converted into Law No. 117 of 16 April 1974. Provisions on exemptions set forth by some provisions of Law No. 82 of 9 February 1963 are incorporated by references under Law 117/74.

(1) The tax rate cannot exceed 100 *lire* per kilogram of gross weight. Law 117/74 provided that the tax rate was to be determined by subsequent Presidential Decrees.

(2) The tax rate was established and adjusted by various Presidential and Ministerial Decrees. The most recent revision was effected by the Ministerial Decree of 2 September 1994.

d. Criteria for assessment, collection and payment of the above taxes set forth by Presidential Decree No. 1085 of 15 November 1982. Criteria for assessment, collection and payment of the "noise tax" set forth by Presidential Decree No. 434 of 26 August 1993 (which incorporates by reference D.P.R. 1085/82).

2. DESCRIPTION

a. Private aircraft and passenger traffic in Italian airports open to civilian air traffic are subject to the payment of the following taxes:

- (1) Landing, taking off, and parking (stopping or sheltering) fees for aircraft;
- (2) Noise tax in addition to the landing and taking off fees for aircraft;
- (3) Embarkation fees for passengers.

b. All loaded or off-loaded freight in airports performing commercial activity is subject to the payment of the tax.

3. TAX RATE

a. Landing and taking off fees:

Rate computed on the maximum take-off weight reflected by the aircraft airworthiness certificate:

Type of Flight	Per ton or fraction thereof of the first 25 tons	Per each subsequent ton or fraction thereof
International flights	3.422 to 3.627 <i>lire</i>	4.272 to 4.528 <i>lire</i>
Domestic flights	1.259 to 1335 <i>lire</i>	1.899 to 2012 <i>lire</i>

For General Aviation only, the above rates were doubled by Law Decree No. 564 of 30 September 1994, converted into Law No. 656 of 30 November 1994.

The fees are increased 50 percent when the landing occurs during night hours.

The tax is rounded to the nearest 500 *lire*.

b. Noise fee:

Landing and taking off fees are subject to the following additional tax:

- Turbojet powered aircraft - Propeller driven aircraft without noise certification	- Turbojet powered aircraft certified to the Convention of Chicago Annex XVI, Chapter 2, of 7 Dec 1944	- Turbojet powered aircraft certified to the Convention of Chicago Annex XVI, Chapter 3 of 7 Dec 1944 - Propeller driven aircraft with noise certificate
20% increase	15% increase	5% increase

c. Parking fees: Applied to any type of aircraft (sheltering or stopping outside), per hour or fraction thereof, over two hours. The rate is 136 *lire* per ton or fraction thereof of maximum take-off weight reflected by the airworthiness certificate.

d. Embarkation fees for passengers:

Passenger age	International passengers	Domestic passengers
Adults	15.500 <i>lire</i>	7000 <i>lire</i>
Children 2 to 12 years old	7.392 <i>lire</i>	2.888 <i>lire</i>

e. Freight Tax: per kilogram of gross weight or fraction thereof with a minimum charge of 400 *lire*.

Freight loading	37 <i>lire</i>
Freight unloading	37 <i>lire</i>

Any portion of Kilogram exceeding 500 grams is rounded to the next higher kilogram.

4. TAXING AUTHORITY

The Ministry of Transportation administers this national tax. However, other ministries and committees are involved in the process of setting the amount of the tax.

5. LEGAL INCIDENCE OF THE TAX

a. The landing, taking off, and parking fees are owed by the carrier using the aircraft to perform commercial activity, and by the pilot in the other cases.

b. The embarkation fees are owed directly by the carrier, who recovers from the passenger. The owner of the aircraft is jointly liable for the payment of the tax.

c. The freight tax is owed by the carrier, who can recover from the sender or the addressee. The owner of the aircraft is jointly liable for the payment of the tax.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Any contract for the use of airports open to civilian traffic is subject to the tax.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

Not applicable.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

The Italian law grants the following exemptions and exclusions:

Landing/take off fees:	<ul style="list-style-type: none">- Aircraft of Foreign States not performing commercial activity on condition of reciprocity of treatment- Airplanes used for training activities
Noise fees:	<ul style="list-style-type: none">- Aircraft performing fire fighting activity, acrobatic activity, or agricultural aviation, glider towing and small aircraft models are exempt from the 20% increase
Parking fees:	<ul style="list-style-type: none">- Aircraft of Foreign States not performing commercial activity- No fee is charged if the aircraft is parked less than two hours- Airline companies when the parking occurs in the company fitting out area.
Embarkation fees:	<ul style="list-style-type: none">- Aircraft crews- Children under 2 years of age- In-transit passengers without transshipment, and in-transit passengers with transshipment, provided they do not pass through immigration- Passengers who must interrupt the travel due to <i>force majeure</i> reasons- CCI personnel traveling on official business- Holders of diplomatic passports
Freight Tax:	<ul style="list-style-type: none">- In-transit freight- Parcel post- Personal baggage- Goods addressed to the Vatican City- Goods addressed to representatives of foreign governments accorded duty-free privileges

11. METHOD OF COLLECTION

a. In state-operated airports, the airport management office assesses and collects this tax from the carrier. The airport management office may delegate the authority to collect the freight tax to the cognizant customs office. The payment of the tax normally follows the assessment. Exceptionally, a delayed payment can be authorized. In such case, the payment must be made within the end of the month in which the tax was assessed.

b. In airports that, under special laws, are entirely operated by concessionaire entities or companies, the tax is assessed and collected by the entity/company, which keeps the proceeds for the purpose of managing the airport and its structures.

c. In airports in which the State has given to concessionaire entities or companies the management of the passenger terminal or of the freight terminal, the international passenger embarkation fee or the freight tax is assessed and collected by the concessionaire.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

a. Passenger embarkation fees: U.S. military personnel departing Italy are subject to the tax. When traveling under orders, they are entitled to reimbursement of this tax. Therefore, the U.S. Government bears the economic burden.

b. Freight tax: U.S. Forces send and receive small quantities of commercial air freight through civilian airports and, in absence of relief, the U.S. Government would bear the economic burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. Landing, take off, and parking fees: The classified Bilateral Infrastructure Agreement and the classified Air Technical Agreement (30 June 1954) provide for relief of charges for aircraft landing, taking off, parking, and handling. There is no distinction between military and civilian airports. Thus, the relief applies to U.S. Forces aircraft using any type of Italian airports in connection with their NATO functions.

b. Passenger embarkation fees: No relief is available. The ruling cited below also noted that passengers fees constitute a payment for services rendered.

c. Freight tax: The Minister of Transportation and Civil Aviation issued a letter to the Minister of Finance, dated 2 July 1968, ruling that the fee on freight consigned to U.S. Forces is a charge for services rendered and, therefore, is not exempted by Article XI of the NATO SOFA. It is important to note, however, that in practice this fee is rarely collected.

PART II
COUNTRY TAX CHART - ITALY

<u>Name</u>	<u>Description</u>	<u>Law</u>	<u>Rate</u>	<u>Applicability to U.S. Forces</u>
Value Added Tax (IVA)	Indirect tax on goods and services	D.P.R. 633/72	20% on most goods and services	Exempt (D.P.R. 633/72, arts. 68 & 72)
Customs Duties	Duty applied to imported goods	D.Lgs. 43/73	Up to 40%	Exempt (NATO SOFA, art. XI)
Port Fees	Fee charged for goods loaded or off-loaded	L.D. 82/63 L.D. 69/88	30 to 360 <i>lire</i> /metric ton	Exempt (NATO SOFA, art. XI)
Vehicle Circulation Tax	Annual tax on motor vehicles	L.D. 39/53	125,000 to 1,110,000 <i>lire</i> , depending on engine size	Exempt (NATO SOFA, art. XI)
Registration Tax	Tax on the filing of certain legal instruments (e.g., real property deeds)	D.P.R. 131/86, as amended by L.D. 155/93	Variable	Not Exempt
Automobile Insurance Tax	Indirect tax imposed on automobile insurance premiums	Law 1212/61 and Law 990/69	12.5% on total premium	AFI white-plated vehicles exempt (MOF ruling)
Stamp Tax	Indirect tax on civil, administrative, or judicial instruments	D.P.R. 642/72 as amended	Normally 20,000 <i>lire</i> per instrument	Not Exempt except for sojourn (residence) permits
Refuse Collection Tax	Tax on collection, transport, and disposal of garbage; imposed at municipal and regional levels	D.Lgs. 507/93, as amended; L.D. 504/92; Law 549/95	Variable tax rates for different categories of refuse	Not Exempt (considered a fee for service)
Television Tax	Subscription tax supporting public broadcasting (RAI)	Law 880/38, as amended	175,000 <i>lire</i>	Exempt for NTSC TV's incapable of receiving Italian TV signal (MOF ruling)

POL Taxes	Excise taxes on production/consumption of POL products (IVA is also imposed)	Law 427/93, as amended by D.Lgs. 504/95	748 to 1200 <i>lire</i> , depending on fuel type (<i>e.g.</i> , unleaded); basic IVA rate is 20%	Exempt
Electricity Taxes	Consumption and additional taxes imposed at national and regional levels (IVA is also imposed)	Law 32/73; Law Decrees 20/89, 384/89, & 165/90 ; Law 427/93	Variable per Kwh IVA rate is 10 or 20%, depending on type of use (<i>e.g.</i> , residential)	Exempt (Law 427/93, art. 66)
Methane and Propane Gas Taxes	Excise and Additional taxes imposed at national and regional levels (IVA is also imposed)	Law 427/93; Law 158/90; Law 398/90	Variable depending on type of use (<i>e.g.</i> , residential); IVA rate is 10 or 20 %	Exempt (Law 427/93, art 66)
Airport and Freight Tax	Law 324/76 as amended; Law 537/93; Law 165/90; D.P.R. 434/93; Law 117/74	Airport landing, take-off, parking & noise taxes; passenger embarkation fees; loaded/off-loaded freight taxes	Variable, generally based on weight of aircraft; embarkation fees 2,888 to 15,500 <i>lire</i> /passenger; freight: 37 <i>lire</i> /kg	Exempt from airport fees per BIA; Not exempt from embarkation fees; Not exempt from freight taxes (considered fee for service)

PART III

ADEQUACY OF CURRENT RELIEF MEASURES AND RECOMMENDATIONS

As is clear from the discussions in Part I and from the table in Part II, the U.S. Forces in Italy enjoy significant relief from taxes in Italy. The NATO SOFA in particular has provided an effective means of relief from POL taxes, Port Fees, Vehicle Circulation Taxes and Customs Duties, and the current relief measures for these taxes are adequate.

The Italian Ministry of Civil Aviation has ruled that the Civilian Airport Passenger and Freight Tax is a charge for services rendered and is, therefore, not exempt under the NATO SOFA, article XI. Nonetheless, we note that Italian officials are presently not attempting to collect fees on the goods of U.S. Forces.

Italian law provides specific relief for IVA, Excise Tax and Consumption Tax (on electricity), and Additional Taxes. Consequently, the current relief measures with regard to these taxes are generally adequate. Italian law does not provide specific relief for the Registration and Stamp taxes. Fortunately, neither of these taxes poses a significant burden on U.S. military operations in Italy. Nonetheless, U.S. Commands in Italy should decline payment of these taxes on the basis of the customary international law principle that sovereigns do not tax other sovereigns, at least when the sending State is acting in a governmental (*jure imperii*) rather than a commercial (*jure gestionis*) manner. Where payment of the tax is required and it is deemed inevitable, Commands should make the payment under protest and notify USSSO of the details of the payment and method of protest.

With respect to some of the other taxes, we note that the increased use of “regional” and “provincial” taxes presents unique challenges, given the substantial political autonomy enjoyed at the local level. For example, the regional authority near Vicenza, home of the Army’s HQ SETAF (Airborne), imposes a substitute regional tax on methane gas consumption. The Embassy engaged in a long-running dispute with the Ministry of Finance on this matter. After over two years, the ministry finally agreed to exempt the command from payment of the tax.

Because of the past success at obtaining relief from taxes that directly impact U.S. Commands, much of USSSO’s tax relief efforts are now focused on matters that impact the U.S. Forces indirectly, such as taxes paid by members of the force, civilian component members, and government contractors. For example, USSSO persuaded the Ministry of Finance that repairs to AFI-plated vehicles should be exempt from IVA, since those vehicles are, by an agreed definition, temporarily imported into Italy by non-residents. (*See* article 9.9, Law 633/72)

In another initiative aimed directly at service members’ pocket books, HQ SETAF (Airborne) at Caserma Ederle, Vicenza, reached an agreement with the telephone company to exempt personal telephone bills from the IVA tax. The basis for this program is a broad reading of the Italian Law permitting tax-exempt delivery of utilities procured for the exercise of “institutional functions” of U.S. commands. The Vicenza program is built around a contract between the Installation Morale, Welfare, and Recreation Fund (IMWRF), and Telecom Italia. Under this program, IMWRF, rather than individual service members and civilian personnel, makes direct payment to the telephone company for the services. U.S. Forces personnel must enroll in the program and make payment to IMWRF.

One recent success involves taxes imposed on automobile insurance premiums. Such taxes do not directly implicate the U.S. Forces, of course, since the U.S. Government is a self-insurer. From a quality-of-life perspective, however, relief in this area would reduce service-member out-of-pocket expenses. Consequently, USSSO was successful in persuading the Ministry of Finance to exempt AFI white-plated POV's from the 12.5% insurance premium tax. We predict that this will save U.S. Forces members over \$1.4 million annually.

Future initiatives could include seeking an exemption from the vehicle circulation tax imposed on AFI black-plated vehicles. Arguably, amendments to the relevant legislation changed the nature of the tax from a service fee for the use of the roads to a tax on personal property. Paragraph 6, article XI of the NATO SOFA indicates that members of the force and civilian component are not automatically exempted from taxes payable in respect of the use of the roads by private vehicles. However, paragraph 5, article XI of the NATO SOFA exempts "personal effects and furniture" brought to Italy by members of the force and civilian component from duty and taxes. The manner by which the circulation and related automobile taxes are computed (fiscal horsepower) bears no resemblance to their proportionate use of the road. Consequently, this is another area where we may be able to reduce the burden of Italian taxes on members of the force and civilian component.

Finally, we provide the following points of contact for questions or suggestions related to this study or the Foreign Tax Relief Program for Italy.

For tax relief matters in general:

U.S. Sending State Office for Italy
PSC 59, Box 65
APO AE 09624
DSN: 625-3146
Commercial: +39-06-4674-2303
www.usembassy.it/ussso

For matters concerning customs assessments on goods imported for official use:

Chief, Office of Defense Cooperation
PSC 59, Box 51
APO AE 09624
DSN: 625-3322
Commercial: +39-06-4674-2641

For matters concerning POL/Tax Free Products:

Naval Support Activity Naples, Supply Department
Code 40P
Attn: Tax Free Products Officer for Italy
PSC 817, Box 5
FPO AE 09622-1005
DSN: 625-5430
Commercial: +39-081-568-5430

PART IV
RELEVANT PROVISIONS OF SELECTED
INTERNATIONAL AGREEMENTS

A. NATO STATUS OF FORCES AGREEMENT

ARTICLE IX

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

ARTICLE XI

2. (a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorized free of duty on presentation of a triptych in the form shown in the Appendix to this Agreement.

(b) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.

(c) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect to the use of vehicles on the roads.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This

duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorized by the sending State for that purpose. The designation of the person authorized to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect to the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2(b), 4, 5, or 7 above .

(a) May be re-exported freely

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1-10 of this Article . . . “duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered; “importation” includes withdrawal from customs warehouse or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose, the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

B. THE SHELL AGREEMENT

Annex A, Article XIII. Customs and Taxation Matters

1. United States exemption from taxes and customs duties shall be regulated as provided in the NATO SOFA and the BIA, as applicable, relevant legislation, and other tax relief agreements on tax exemption between the governments.

2. When the installation is the point of entry into the national territory, transient or residing military/civilian personnel, not covered by the NATO SOFA, will fall under the normal customs regulations applying to foreigners. If the transit/arrival installation is the first stop in the national territory, the US Commander will provide the list of these personnel to the local customs. Authorities if available, or to the Italian Commander, in accordance with procedures specified in Annex

PART V

TRANSLATION OF SALIENT FEATURES OF TAX LAWS

A. VALUE ADDED TAX (IVA)

Presidential Decree No. 633 of 26 Oct. 1972, as amended:

Article 1

Taxable Transactions

Value added tax shall be chargeable on the supply of goods and services effected within the territory of the State in the course of business or in the practice of a trade or profession; it shall also be chargeable on imports, regardless of whoever effects them.

Article 2

Supply of Goods

The supply of goods means any transaction for consideration involving the transfer of ownership or the creation or transfer of rights to the enjoyment of goods of any kind.

The following transactions shall also constitute a supply of goods:

1. Sales with reservation of title;
2. Leases with ownership transfer clauses binding upon both parties;
3. Transfers from principal to agent or from agent to principal of goods sold or purchased in fulfillment of contracts under which a commission is payable;
4. The supply, free of charge, of goods produced or traded in the normal course of business of an enterprise;
5. The utilization of goods by an entrepreneur for personal or family use or for purposes other than those of his business, whether or not as a result of the cessation of that activity, with the exclusion of immovable property and other goods entered in public registers, purchased prior to 1 January 1973;

6. Assignments made by any type of company to its members for any reason, as well as similar assignments by other private or public bodies, including consortia and associations or other organizations without legal personality.

The following transactions do not constitute the supply of goods:

- a. transfers of money or monetary credits;
- b. transfers of businesses including all goods connected with particular branches of the business;
- c. transfers of land not eligible for use as building land in accordance with the provisions in force use as building does not include the erection of structures referred to in Article 9a) of Law No. 10 of 28 January 1977;
- d. supplies of appropriately labeled free samples of small value;
- e. subscriptions to capital of companies and other bodies, including consortia and associations or other organizations;
- f. transfers of goods as a result of mergers or transformations of companies and of similar transactions brought about by other bodies;
- h. supplies of goods purchased or imported by the supplier where there is no possibility of deducting the relevant tax in view of the second paragraph of Article 19;
- i. supplies of daily newspapers and supplies of stamps and money-postal orders, insurance stamps and the like;
- j. transfers of any kind of food paste; supplies of bread, cakes and other products of ordinary grocery, without additives of sugar, honey, eggs, cheese or fruit; transfers of fresh milk, neither concentrated nor sweet, destined for food consumption, to be sold at retail, subjected to such treatment as provided by the sanitary law.

Article 3

Supply of Services

The supply of services means the supply of services for consideration under any work, job, transport, agency, forwarding, commission, intermediary or safe custody contract, and resulting in general from any obligation to perform or refrain from performing an act, or to tolerate an act or situation, whatever the source.

The following shall also constitute the supply of services, if effected for consideration:

1. the assignment of goods by lease, rent, hire or the like;
2. transfer, granting, licensing and the like of copyrights, industrial inventions, models,

designs, processes, formula and the like and of trademarks and emblems;

3. loans in money and securities not representing goods, including discount of credits, bills of exchange or cheques. The depositing of money with banks and financial institutions or with government departments shall not constitute a loan, whether or not current account treatment is accorded;

4. the serving of foodstuffs and beverages;

5. any kind of transfer of contracts.

Assignments listed in article 2 (No. 6) shall be deemed to be supplies of services when they relate to any of the transfer, granting or licensing operations referred to in 1, 2, and 5 above. Supplies of services rendered and received by agents without power of attorney shall be considered supplies of services, whether or not effected in relations between the principal and the agent.

The following do not constitute the supply of services:

a. transfer, granting, licensing and the like of copyrights effected by authors and their heirs or legatees, except those relating to the works referred to in article 2 (No. 5 and 6) of Law No. 633 of 22 April 1941, and to the works of all kinds used by traders for the purposes of commercial advertising;

b. provision of loans in consideration of the issue of debentures;

c. the transfers of contracts referred to in subparagraphs a, b, and c of the third paragraph of article 2;

d. the transfers and contributions referred to in subparagraphs e. and f. of the third paragraph of article 2;

e. agency and intermediary services, relating to copyrights except those concerning the works referred to in subparagraph a and services relating to the protection of copyrights of all kinds, including the services supplied by an agent in the collection of proceeds;

f. agency and intermediary services relating to debenture loans;

h. the services of commission agents relating to the transfers referred to the subparagraph 3 of the second paragraph of article 2 and those of the agents referred to in paragraph 3 of this article.

Article 7

Territorial Jurisdiction of the Tax

The territory of the country shall be deemed to be the territory subject to its sovereignty, with the exception of the municipalities of Livigno and Campione d'Italia, and the Italian waters of Lake Lugano as defined by article 2, fourth paragraph, of Presidential Decree No. 43 of 23 January 1973.

Supplies of goods shall be deemed to be effected within the territory of the country if they relate to immovable or movable property present in the territory and having national status or registered after importation or covered by the temporary importation rules.

Services shall be deemed to be supplied within the territory of the country when they are rendered by persons domiciled within the territory or by persons resident therein who have not established their domicile abroad, and when they are rendered by permanent establishments in Italy of persons domiciled and resident abroad; they shall not be deemed to be supplied within the country when they are rendered by permanent establishments situated abroad of persons domiciled or resident in Italy. In the case of persons other than individuals, for the purpose of this article, the domicile shall be deemed to be the registered place of business and the residence the actual place of business.

Notwithstanding the foregoing paragraph:

a. supplies of services relating to immovable property, including valuations, agency services and services relating to the preparation and coordination of the performance of work on immovable property is situated in the territory thereof;

b. supplies of services, including valuations, relating to tangible movable property and supplies of cultural, scientific, artistic, educational, sporting, recreational and similar services, loading and unloading, handling and similar operations ancillary to the carriage of goods shall be deemed to be effected within the country when they are executed in the territory thereof;

c. transport services shall be deemed to be supplied within the country in proportion to the distance covered therein;

d. services deriving from real estate contracts including leased and the like of tangible movable goods other than means of transport, supplies of services referred to in paragraph 2 of article 3, advertising services, technical or legal advisory services, data processing services and the like, services relating to banking, financial and insurance transactions and those relating to personal loans, as well as intermediary services relating to the above-mentioned services and those relating to the obligation not to exercise them, shall be deemed to be effected within the country when they are supplied to persons domiciled in the territory thereof or to persons resident therein who have established their domicile abroad and when they are supplied to permanent establishments in Italy of persons domiciled and resident abroad, unless they are used outside the European Economic Community;

e. The services referred to in subparagraph d supplied to persons domiciled or resident in other Member States of the European Economic Community shall be deemed to be effected within the country when the person to whom they are rendered is not a taxable person in the country in which he is domiciled or resident;

f. services referred to in subparagraph d., excluding technical and legal advisory services, processing and providing data, supplied to persons domiciled or resident outside the E.E.C. and those deriving from contracts for leaseholds, leasing, hiring and the like of means of transport supplied by persons domiciled or resident outside that Community or domiciled or resident in the territories excluded by the first paragraph or permanent establishments operating in the territories above mentioned, shall be deemed to be effected within the country when they are used therein; these latter services, if supplied by persons domiciled or resident in Italy to

persons domiciled or resident outside the E.E.C. shall be deemed to be effected within the country when they are used in Italy or in another Member State of the Community.

Transactions for exports similar to exports and international services or related to international trade, referred to in the next articles 8, 8a and 9, shall not be deemed to be effected within the country.

Article 8

The following shall constitute supplies for export:

a. supplies, whether or not through agents, which are made by means of transport or dispatch of goods abroad or in any case outside customs jurisdiction by or in the name of the supplier or his agents, and also for assignment of their transferees or agents.

The goods can, by transferee or supplier himself or by third parties, be processed, modified, installed, assembled or adapted to other goods.

The exportation must result from the customs document or Customs Office's signature impressed on a copy of the invoice or a copy of the document that accompanies goods issued in accordance with article 2 of D.D. No. 627 of 6 October 1978; if effected by post, the exportation must be substantiated in accordance with the procedures set forth by decree of the Minister of Finance in agreement with the Minister of Posts and Telecommunications.

b. supplies by transport or dispatch abroad or in any case outside customs jurisdiction within 90 days from delivery, by the transferee not resident or for his account, with the exception of goods to be used as supplies or provision on board of pleasure crafts or vessels, private aircraft or any other means of transport for private use and the goods conveyable in private luggage outside customs jurisdiction; the exportation must be substantiated by a signature of Customs Office or Post Office impressed on a copy of the invoice.

c. supplies of goods, whether or not through agents, to a person intending to export them, whether or not through agents, in their original state or after modification, processing, installation and like operations, and the supply of services relating to the modification, processing and like operations rendered by third parties to the person himself and supplies of energy in whatever form for use in such operations.

The transactions referred to in subparagraph c shall be effected without payment of taxes to the persons referred to in subparagraph a, if residents, and to the persons that effect the supplies referred to in subparagraph b against a written statement and on their responsibility, within the limits of the full amount of the sums received in respect of the exportations, referred to in subparagraphs mentioned above, made by them during the preceding calendar year.

The purchasers and agents can avail themselves of the amount above-mentioned for purchases of goods that are exported in the original condition during the six months following their delivery,

and within the limits of the difference between the amount of goods purchased on their behalf during the same year, referred to in subparagraph a, in relation with acquisition of other goods or services.

The subjects who intend to avail themselves of this faculty to purchase goods and services without the payment of the tax, must give written communication to the competent IVA tax office within January 31, or after this date, but, in any case, before the first transaction is effected; they also must indicate the amount of consideration due for the exportations effected during the preceding calendar year.

The same persons can opt, with a communication within January 31, for the faculty to purchase goods and services without the payment of the tax, undertaking as amount of reference in every month, the consideration received for exports effected during the preceding 12 months.

The option has effect for 3 calendar years and if not revoked, it will be renewed automatically every 3 years.

The revocation must be communicated to the tax office by the following January 31 of every period of 3 years.

Subjects who begin activity or in any case have not effected exportations in the preceding calendar year, can, during a period of 3 years, avail themselves of the faculty to purchase goods and services without tax payment by giving notice in advance to the tax office, using as amount of reference, in each month, the consideration received for exports effected during the preceding 12 months.

Taxpayers who avail themselves of this faculty to purchase goods and services without the payment of the tax in accordance with the paragraph above, must note on the registers referred to in article 23 or 24 or 39, paragraph 2, within each month, the amount of reference of exports and purchases effected without payment of tax in accordance with subparagraph c of the first paragraph resulting from invoices and customs documents recorded or subject to recording within the preceding month.

Article 8 - bis

Transactions Treated as Supplies for Export

The following shall be treated as supplies for export:

- a. supplies of ships to be used for commercial or fishery activities or for sea rescue or assistance operations, and also demolition operations, excluding the pleasure craft referred to in Law No. 50 of February 11, 1971;
- b. supplies of ships and aircraft, including satellites, to government agencies, whether legal persons or not;
- c. supplies of aircraft to airlines primarily engaged in international transport;
- d. supplies of propulsion machinery and their components and spare parts and of goods

to be used as on-board equipment and supplies for the fueling and provisioning of the ships and aircraft referred to in the preceding subparagraphs, with the exclusion of provisions for ships used for inshore fishing;

e. supplies of services including the use of dry docks, relating to the construction, handling, repair, modification, transformation, assembly, outfitting, furnishing, leasing and chartering of the ships and aircraft referred to in subparagraphs a, b, and c, and propulsion machinery and their components and spare parts and ship equipment, and supplies of services concerning the demolition of ships referred to in paragraph a and b.

The provisions of the last paragraph of article 7 and of the second and third paragraph of article 8 shall apply, with reference to the full amount of consideration for a transaction referred to in preceding paragraph, also for purchases of non-depreciable goods and services made by persons who carry out such transactions in the operation of their own businesses.

Article 9

International Services or Services Connected with International Trade

9. The treatments referred to in article 176 of the consolidated act approved by means of D.P.R. No. 43 of 23 January 1963, performed on goods coming from abroad not yet definitively imported, as well as on domestic or nationalized goods destined to be exported from or on behalf of the service provider or of the customer, provided he does not reside in the territory of the State.

Article 10

Transactions Exempt from Tax

The following shall be exempted from tax:

1. Credit and financing transactions, including the discounting of bank debts, bills of exchange or cheques, credit guarantees or any other security for money, extensions of payment and the management of joint investment funds and the like; the Post Office bank department referred to in Presidential Decree No. 156 of 29 March 1973;

2. Insurance, reinsurance and life annuity transactions;

3. Transactions concerning foreign currency used as legal tender and debts in foreign currency, with the exception of collectors items;

4. Transactions in shares, debentures or other securities not establishing title to goods and interests in companies excluding management and safekeeping of the securities;

5. Transactions concerning the collection of taxes, including those concerning payments of taxes effected on behalf of taxpayers, in accordance with specific statutory provisions, by credit undertakings and institutions;

6. Transactions involved in and connected with the organization and operation of the State prize drawing ("Lotto"), the national lotteries and of the games of skill and forecasting contests operated by the State and by the bodies referred to in Legislative Decree No. 496 of 14

April 1948, and the organization and operation of totalizers and of the betting referred to in Law No. 315 of 24 March 1942, including transactions involved in and connected with the collection of the stakes;

7. Transactions concerning the operation of betting at competitions, races, games, contests and competitive events of all kinds, other than those referred to in subparagraph 6, and those concerning the operation of authorized gaming and the operation of authorized local drawings;

8. Non-financial leasing and letting, related supplies, recisions and extensions of land and forms, of land other than parking areas, for which no building destination is set forth, and buildings with their accessories, including supplies and durable goods for the use of leased real estate properties, excluded the instruments which cannot be differently used without transformation and those whose destination is for private dwellings based on the companies which built them or bought them for resale.

9. Agency, mediation and intermediary services relating to the transactions referred to in subparagraphs 1 to 7 as well as those relating to gold and foreign exchange, including deposits in bank accounts, effected in relation to transactions in which the Bank of Italy and Italian Exchange Control Office are a part or the agent banks pursuant to article 4, last paragraph, of this decree.

10. Supplies of gold in ingots, pigs, bars, nuggets and granules;

11. The supplies referred to in article 2 (4) to public bodies, recognized associations or foundations with the sole aim of welfare, charity, education, instruction, study or scientific research;

12. The supplies referred to in article 2 (4) to victims of natural disasters or catastrophes declared as such in accordance with Law No. 996 of 8 December 1970;

13. Urban public passenger transport services carried out by any means. Transport services operated within a municipality or between municipalities not more than fifty Km apart shall be deemed to be urban transport and public transport also those effected by vehicles for hire. For the transport operations referred to in Law No. 1110 of 23 June 1927 and Royal Decree Law No. 1696 of 7 September 1938, converted into Law No. 8 of 5 January 1939, the exemption shall be applied only for the transports that are the exclusive means to connect municipalities or suburbs thereof;

14. Transportation by ambulances by authorized enterprises;

15. Services relating to the postal services and to the national telegraph service;

17. Services supplied in the exercise of the medical professions and occupations subject to supervision in accordance with article 99 of the Consolidated Law approved by Royal Decree No. 1265 of 27 July 1934, and subsequent amendments;

18. Hospitalization and treatment by hospitals, clinics and authorized nursing homes and by mutual assistance societies with legal personality, including the supply of medicines, medical remedies and board, and treatment provided by spas;

19. Educational services for children and young people and teaching services of all kind, including services for occupational training and retraining, supplied by recognized institutions or schools, including services connected with the provision of board and lodging, the supply of books and teaching materials, whether or not supplied by annexes or subsidiary colleges or boarding schools and lessons relating to scholastic and university subjects given by teachers in a personal capacity;

20. Services of the kind provided by children homes, orphanages, hostels, retirement homes for old people and the like, seaside, mountain country holiday camps for children, youth hostels and the like as referred to in Law No. 326 of 21 March 1958, including the supply of board, clothing and medicines, treatment and other ancillary services;

21. Services provided by libraries and the like, and those relating to public access to museums, art galleries, collections, ancient monuments, villas, palaces, parks, botanical and zoological gardens and the like;

22. Welfare and assistance services for employees;

23. Supplies of human organs, blood and milk and blood plasma;

25. Services rendered by mortuaries;

26. Fees due by public instrumentalities, municipal ones included, or private ones dealing with building and running of plants, landfills included, for disposal, recycling of urban solid waste, hazardous, toxic, solid and liquid substances.

Article 13

Definition of Taxable Base

The taxable base for the supply of goods and services shall be the aggregate amount of the consideration due to the supplier under the contracts, including costs and expenses associated with the performance of the contract and dues or other costs owing to third parties and charged to the assignee or purchaser, plus the supplements directly connected with the respective amounts owed by other persons.

For the purposes of the foregoing paragraph, consideration means:

a. as regards the supply of goods or services resulting from an act of a public authority, the amount of indemnity however described;

b. as regards the transfer of goods from the principal to the agent or from the agent to the principal, as referred to in article 2(3) the selling price agreed upon by the agent (less commission) and the purchase price agreed upon by the agent (plus commission), respectively; as regards the supply of services to or by agents without power of attorney, referred to in the third paragraph of article 3, the price of the supply of the service agreed upon by the agent (less

commission), and the price of purchase of the service received from the agent (plus commission), respectively;

c. as regards the supplies referred to in article 2(4), (5), and (6), the assignments referred to in the third paragraph of article 3 and the supply of goods and services in discharge of previous commitments, the open market value of the goods and services;

d. as regards exchange transactions of the kind referred to in article 11, the open market value of the goods and services involved in each such transaction;

e. as regards the supply of goods imported under temporary importation arrangements, the consideration for the supply less the value determined by the Customs Office at the time of temporary importation.

Article 16

Rate of Tax

The rate of tax payable shall be 20% of the taxable amount of the transaction.

The rate shall be reduced to 9% for transactions relating to the goods and services listed in the attached Table A, without prejudice to the provisions of article 34, and increased to 20% for those relating to the goods listed in Table B.

For the supply of services under a service contract, a contract to make up work or similar contracts relating to the production of goods and for the supply of service under a financial leasing contract, the tax shall apply at the same rates as would be applied to the supply of the goods produced or financially leased.

In case of a change in rates, the invoices issued, in accordance with article 21 with reference to the time effected pursuant to article 6 paragraphs 1, 2, and 4, with respect to subjects included in the last paragraph of the same article 6, are not subject to adjustment with respect to the rate of tax applicable at the time of payment.

Article 17

Taxpayers

The tax shall be payable by subjects who supply taxable goods and services subject to the tax and shall be paid to the Treasury in such a way as to cover all transactions effected, net of the deduction provided for in article 19, in accordance with the rules and within the periods fixed under Title Two.

The rights and obligations under this decree in respect to transactions effected in the territory of

the country by or in respect of persons who are not resident and have no permanent establishment in Italy may be exercised or performed in the ordinary way by a representative resident within the territory of the country and appointed as required by the second paragraph of article 53, who shall be jointly responsible with his principal for the obligations under this decree. The appointment of the representative shall be notified to the other contracting party before the transaction is effected.

In the absence of a representative appointed in accordance with the previous paragraph, the obligations relating to supplies of goods and services effected within the territory of the country by persons resident abroad, and the obligations relating to the supplies of services referred to in article 3, paragraph 2 by persons resident abroad to persons resident within the country, shall be performed by the purchasers or customers if they purchase the goods or utilize the services in the course of a business or in the practice of a trade or profession.

The provision of the second and third paragraph shall not apply to transactions effected by or in respect to permanent establishments in Italy of persons resident abroad.

Article 18

Reimbursement

A subject supplying goods or services subject to the tax must charge the relative tax, acting as a collection agent, to the purchaser or customer.

In transactions for which the issue of an invoice is not compulsory, the price or consideration is deemed to include the tax. If the invoice is issued at the request of the client, the price or consideration must be reduced by the percentage mentioned in paragraph four of article 27.

Invoicing is not compulsory in the case of the transfers listed in subparagraphs 4 and 5 of article 2.

Any agreement conflicting with the provisions of the foregoing paragraphs is null and void.

A claim in respect of a tax charge shall be a preferential claim against the immovable property which is the object of the transfer or to which the service relates within the meaning of articles 2758 and 2772 of the Civil Code; and if it relates to the supply of movable goods it has privilege over the debtor's movable property of the same rank as that for general privilege as established by article 2752 of the Civil Code, to which it is however subordinate.

TITLE TWO

Obligations of Taxpayers

Article 21

Invoicing of Transactions

An invoice (which may also be in the form of a bill, account, note of professional charges and the like) shall be issued for each taxable transaction. The invoice is deemed to be issued on being delivered or forwarded to the other party.

The invoice shall be dated and serially numbered and show the following particulars:

1. Business, name or designation of company and place of residence or domicile of the parties to the transaction, and, in the case of non-residents, the location of the permanent establishment. The name and surname shall be entered instead of the business, name, or designation of company, where enterprises, companies or entities are not involved;
2. Nature, quality and quantity of the goods and services involved in the transaction;
3. Payment made and other data needed to determine the taxable base, including the open market value of the goods supplied by way of discount, premium or reduction as referred to in article 15, paragraph 2;
4. Open market value of the other goods supplied by way of discount, premium or reduction;
5. Rate and amount of tax, fractions being rounded up to the nearest *lire*.

If the transaction or transactions to which the invoice relates involves goods or services taxable at different rates, the details and information referred to in subparagraphs 2, 3, and 5 shall be shown separately according to the rate applicable.

The invoice must be made out in duplicate by the supplier of the goods or services at the time of effecting the transaction in accordance with article 6, and one copy shall be delivered or forwarded to the other party. In the case of supplies of goods, the delivery or forwarding of which are substantiated by a consignment note or by other document which identified the persons or organizations involved in the transaction and which has the characteristics specified by decree of the Minister of Finance, the invoice may be issued within a month following that of delivery or forwarding, and shall include details of the date and number of the documents concerned. In such a case, a single invoice may be issued to cover all the transactions between the same parties during a calendar month. The same decree shall lay down the requirements for the keeping and preservation of the aforesaid documents.

In the circumstances referred to in the third paragraph of article 22, a single copy of the invoice shall be issued by the recipient of the goods or service.

An invoice shall also be issued for supplies not liable to the tax under article 2, item 1), for supplies of goods in transit or stored in places subject to customs supervision which are not liable to the tax under the second paragraph of article 7, and for the non-taxable transactions referred to in articles 8, 8 bis and 9 and for those exempt transactions referred to in article 10, except for those listed in paragraph 6.

In these cases, the invoice, instead of showing the amount of tax, shall be annotated to the effect that the transaction is not taxable or is exempt, and shall cite provision.

If an invoice is issued for a fictitious transaction, or if the payment made in respect of the transaction or the tax paid in respect thereof is shown therein as a figure higher than the true one, tax is due on the whole amount shown or in accordance with the particulars on the invoice.

The costs of issuing invoices and of complying with the various procedures and formalities may not be charged in any circumstances.

Article 27

Monthly Returns and Payments

Taxable persons shall, by the twentieth day of each month, calculate, in the appropriate section of the register referred to in article 23 or of the register referred to in article 24, on the basis of the entries made in that register during the second previous month and in accordance with the procedures specified by decree of the Minister of Finance, the difference between the total amount of tax in respect of taxable transactions and the total amount of tax deductible in accordance with article 19, taking into account also the changes referred to in article 26.

Taxable persons shall pay the amount of the difference as required by article 38 within the same period, entering in the register the essential data of the relevant statement.

Whenever the amount does not exceed the limit of 50,000 *lire*, the payment will be effected together with the one (payment) concerning the next month.

If the calculation results in a difference in the taxpayer's favor, the amount concerned shall be taken as a deduction in the following month.

For retailers and other taxpayers referred to in article 22, the amount to be paid under the second paragraph, or to be carried forward to the next month under the third paragraph, shall be determined on the basis of the aggregate amount of tax relating to the consideration received for the taxable transactions recorded in the previous month in accordance with article 24, less 3.85 percent for transactions taxable at 4 percent, less 8.25 percent for transactions taxable at 9 percent; less 11.50 percent for transactions taxable at 13 percent; less 16.65 percent for transactions taxable at 20 percent. In all cases of amounts inclusive of tax, the tax can be obtained, alternatively to the procedure above, by dividing these amounts by 104 when the tax is 4 percent, by 109 when the tax is 9 percent, by 113 when the tax is 13 percent, by 120 when the tax is 20 percent, and multiplying the quotient by 100 and rounding the product, for defect or excess, to the nearest whole unit.

Deductions not made in the months to which they refer may not be made in the subsequent months, but only on submission of the annual return.

Article 30

Payment of the Balance and Refund of the Excess

The difference between the amount of tax due on the basis of the annual return and the total of the sums already paid monthly under article 27 shall be paid in a single remittance with the period established for submission of the return.

If the annual return shows that the deductible amount referred to in article 28 paragraph 3, plus the monthly payments, exceeds the amount of tax in respect of the taxable transactions referred to in article 28(1) the person liable for the tax may at his discretion either deduct the overpayment in the following year (entering it in the register referred to in article 25), or apply for it to be refunded, as provided by the following paragraphs and, in any case, at the end of his business activity.

Article 67

Imports

The following shall be deemed to be imports, regardless of who effects them: transactions deemed to be final imports in accordance with customs provisions, transactions of temporary importation effected in accordance with the second paragraph of article 187 of Presidential Decree No. 43 of 23 January 1973, re-importation transactions following temporary exportation and transactions reintroducing, exempt from customs duties, goods which have been previously exported.

Article 72

International Treaties and Agreements

Facilities granted under international treaties and agreements in respect of turnover taxes shall apply to value added tax.

For purposes of this law, the supply of goods and services not subject to the tax pursuant to the first paragraph are considered equivalent to the non-taxable transactions mentioned in articles 8, 8 bis and 9.

The provisions of the previous paragraphs shall apply also to the supply of goods and services:

1. To diplomatic and consular missions and representatives, including technical-administrative staff, of States which reciprocally grant similar benefits to Italian diplomatic and consular missions and representatives;
2. To military commands of member States, to international military headquarters and subsidiary units set up under the North Atlantic Treaty, in performance of their institutional functions, and to the Defense Department when acting on behalf of the organization instituted under the above-mentioned treaty;

3. To the European Communities in the exercise of their proper functions, whether or not supplied to businesses or corporations for the execution of research or association contracts concluded with the said Communities, subject as regards the latter to the limits of the Community participation;

4. To the United Nations Organization and its specialized agencies in the performance of its institutional functions;

5. To the European University Institute in the performance of its institutional functions.

The provisions of the foregoing paragraph apply to the bodies listed in sub-paragraphs 1, 3, 4, and 5 when the amount of the supply of goods or services exceeds 500,000 *lire*; for the entities indicated at subparagraph 1, however, the provisions do not apply to the operations for whom the resulting benefit is another subject, even though the fiscal burden was rendered upon the entities referred to above.

B. CUSTOMS DUTIES

Presidential Decree No. 43 of 23 January 1973

Article 34

Customs Rights and Border Rights

Customs rights are all those rights that customs must collect in force of a law referring to customs operations.

Among customs rights, the following are border rights:

Import and export duties, the levies and other taxes upon imports and exports foreseen by EEC regulations and the relative rules of application and rules moreover, for what concerns imported goods, monopoly rights, manufacturing taxes, and every other consumption tax or tax in favor of the State.

Article 36

Basis of Customs Duties

For goods subject to border rights, the basis of customs duties for foreign goods consists in their destined consumption within the customs territory and for national or nationalized goods in their destined consumption outside of the such territory.

"Destined for consumption within the customs territory" means foreign goods declared for ultimate importation; "destined for consumption outside the said territory" are national or nationalized goods declared for ultimate exportation; the obligation for custom duties arises on the date placed in the declaration in the presence of the importer, by the official in charge of receipt in customs.

Article 38

Persons Subject to Customs Duties. Right of Withholding

The owner of the goods, under the provisions of Art 56, jointly with the persons for whom the goods have been imported or exported, is obliged to pay the tax.

Satisfaction of the tax implies that the State, besides the privileges contemplated in this law, has the right to withhold goods subject to the said tax.

The withholding right may be exercised also in satisfaction of any other amount due to the State relative to the goods that are the subject of customs operations.

Article 55

Customs Destination of Goods

Customs destination of goods is that destination which, in accordance with the statement contemplated in article 56, is given to the said goods in the manner and in the form permitted by this codified law.

Customs destinations are as follows:

1. For foreign goods:
 - a. Ultimate importation
 - b. Temporary importation and successive re-exportation
 - c. Shipment from one customs to another
 - d. Transit
 - e. Deposit
2. For national and nationalized goods pursuant to article 134:
 - a. Ultimate exportation
 - b. Temporary exportation and successive re-importation
 - c. Coastal trade
 - d. Circulation

Article 56

Customs Declaration

Every customs operation must be preceded by a declaration to be made by the owner of the goods in the form set in article 57.

The owner of the goods is considered to be the person presenting them at customs or holding them at the time the goods pass the border.

Article 60

Exemption from Customs Inspection

Envelopes, letters of and papers described in "travel papers" carried by postal agents are exempt from inspection and customs regulations.

Diplomatic correspondence carried by authorized messengers are also exempt, provided they are contained in officially sealed pouches.

Article 143

Shipment of Merchandises Exempted from Inspection

Customs may decide whether to release a “security bill” for merchandise wrapped in packages, limiting the inspection to an outside check of the said packages and eventually to spot checking of the contents thereof, provided the packages are mechanically wrapped so as to prevent tampering; in this case, the customs agents mark the packages with lead seals. In case packages are not mechanically wrapped, they must be secured with double wrapping and three lead seals at the expense of the person requesting shipment thereof.

C. PORT FEES ON GOODS

Law Decree No. 82 of 9 February 1963

Article 29

Exemptions

Exempt from the tax contemplated in article 27 are the following goods:

- a. Material coming from the scrapping of ships when such scrapping is done by the State.
- c. Parcel post.
- f. Goods consigned to representatives of foreign governments entitled to duty-free privileges provided such goods are directly consigned to such representatives.
- g. If accompanied by the passenger, luggage under 222 lbs . . . and used household goods and furniture.
- h. Goods donated for social assistance to the State and to organizations, institutes and agencies that are acknowledged by the State and pursue the same humanitarian purposes.

Article 40

Goods Exempt from Payment of the Tax

The following are exempt from the payment of the taxes set forth in the preceding articles (articles 33-36):

- a. Parcel post, ship's provisions, small personal baggage.
- b. Materials transported on board to be used as ballast if they are not goods or materials used for repairs within the harbor, and all objects of any kind that are unloaded to be repaired and then loaded again.
- c. Coal, diesel oil and all other fuels to be used on board in the quantity necessary to make the trip.
- d. The pit-coal coming from abroad and in direct transit abroad when its quantity reaches at least 100,000 tons per year.

e. Drums, tanks and empty containers in general, when they are to be used or were already used to load or unload a cargo in a port of the State.

f. Materials relative to maritime signaling.

g. Under conditions of reciprocity goods addressed to representatives of foreign governments accredited in the State if they arrive from abroad directly consigned to the same representatives.

h. Goods consigned to Vatican City.

i. Goods donated, for social assistance, to the State or to organizations, institutes and agencies that are recognized by the State and pursue such purpose.

D. VEHICLE CIRCULATION TAX

Presidential Decree No. 39 of 5 February 1953 (as amended)

Article 1

Subject of the Tax

Vehicle and trailer circulation on streets and public areas, as well as boat navigation of public waters, are subject to taxation set forth in the following articles and tariffs attached thereto.

Article 2

Determination of the Tax

The taxes mentioned in the preceding article are measured in relation to:

* * *

b. The engine horsepower determined as set up in the following article for all vehicles to be used for passenger transportation, for special use vehicles, for vehicles intended for mixed transportation use (passengers and goods) and for motorboats.

* * *

d. The load capacity expressed in quintals (1 quintal equals 220.46 lbs; the difference between full load gross weight and net weight of the vehicle) for vehicles and trailers intended for capacity transportation of goods.

e. The passenger capacity of trucks authorized to transport persons and goods separately, plus the tax that is computed on the basis of weight.

Article 3

Ascertainment of Engine Power for Fiscal Purposes

With regard to payment of the tax, motor vehicle and motorboat engine power is ascertained by adopting the following formulae, ignoring any eventual fraction of horsepower resulting from computation thereof.

Article 4

Payment of the Tax

Payment of the circulation tax must be made in care of Registry Offices. The Finance Minister can entrust the Italian Automobile Club to collect all circulation and related taxes for a period

and at the conditions specified in a special agreement which will be approved by Finance Ministry decree. In this case, the payment of the taxes will be effected to Italian Automobile Club's collection offices.

Article 8

Tax for Motor Vehicles Temporarily Imported

Private motor vehicles and motorcycles temporarily imported, belonging to persons permanently domiciled abroad, may circulate in Italy for three months tax exempt. For the following months they can circulate under payment of one-twelfth of the annual cost of the fee for each month up to the ninth month. Vehicles not exported after one year are considered nationalized and are requested to pay circulation tax.

E. REGISTRATION TAX

Presidential Decree No. 131 of 26. April 1986

Article 2

Instruments Subject to Registration

The instruments cited below are subject to registration in compliance with the following articles:

1. The instruments indicated in the schedule if made in writing in the territory of the State.
2. The verbal contracts set forth in article 3.
3. The operations of foreign companies and businesses set forth in article 4.
4. The instruments executed abroad, including the acts of Italian consuls, that involve the transfer of property or creation or transfer of other rights concerning real property located in the territory of the State, and instruments that have as subject the leasing or renting of such property.

Article 5

Registration within Fixed Time Period and Registration in Case of Use

The instruments indicated in the first part of the schedule and, in case of use, those indicated in the second part are subject to registration within fixed time periods.

Article 6

“Case of Use”

There is “Case of Use” when an instrument is deposited in order to be recorded at the court record offices (in the performance of administrative activities) or at the State Administrative Offices or the public territorial agencies and the respective supervisory bodies, except when the depositing is made for the purpose of fulfilling an obligation of the Administration or the agency.

Article 9

Competent Office

The Registry Office in the district of the public official who is required to request registration in conformance with article 10 is competent to register public instruments, private notarized instruments, and instruments of judicial bodies. The registration of any other instrument can be executed by any registry office.

Article 10

Individuals Required to Request Registration

Registration must be requested:

1. By the contracting parties for un-notarized private instruments, for verbal contracts, and for public and private instruments executed abroad.

Article 13

Time Limits for Requesting Registration

The registration of instruments that are subject to registration within a fixed time period must be requested within 20 days of the date of the instrument if made in Italy; within 60 days if made abroad.

Article 16

Execution of Registration

The registration is executed by the tax office, subject to payment of the tax in the amount fixed, dated as of the day on which it has been requested.

The tax office can defer the settlement of tax not more than 3 days; the deferment is not allowed if it should delay or prevent the adoption of a provision or the deportation of the instrument beyond the period in which it is to be registered.

The registration consists of recording the instrument or the statement in appropriate registers, indicating the sequential annual number, the date of registration, the name of the requestor, the date and the nature of the instrument, the respective parties and the total of the sums collected.

The office, here below or at margins of the originals and copies of instrument or statement, notes the date and number of registration and affixes the receipt of the sum collected or states that the registration was duly effected; notation of the effected registration shall be also made on the instruments eventually enclosed.

Article 18

Effects of Registration

Registration, as set forth by article 16, certifies the existence of instruments and attributes to them a date certain as regards third parties, in compliance with article 2704 of the Civil Code, and assures their preservation. The Registry Office keeps on file the original and the copies retained according to article 16 and, after 10 years, sends them to the notarial archives, except for notifications of verbal contracts, which are destroyed.

Upon request of the contracting parties, their assigns or the person in whose interest the registration was made, the Registry Office will release a copy of private instruments, the notification, and instruments executed abroad of which it is still in possession as well as the notations of registration of any public or private instrument. Copies shall be released to other persons only upon authorization of the competent judge.

Article 40

Instruments Concerning Transactions Subject to the Value Added Tax.

The tax is applied at a fixed rate on the transfer of goods and the performance of services that are subject to the value added tax.

The transfers of goods and performances of services set forth in the sixth paragraph of article 21 of Presidential Decree No. 633 of 26 October 1972 (IVA law) are also considered subject to the value added tax, with the exception of rents and gratuitous leases listed in article 10, first paragraph of the same decree.

Article 43

Taxable Base

The taxable base, except where provided elsewhere, is computed as follows:

1. For contracts based on valuable consideration that transfer or establish real rights, by the consideration agreed upon for the entire duration of the contract. If the amount of consideration agreed upon is less than the selling price, the taxable base is established by the selling price of the property or right on the date of the instrument

4. For the transfer of a contract, on the total amount of consideration agreed upon the transfer or on the value of the services yet to be performed.

Article 57

Subjects Obligated to Pay

Besides the public officials who have drawn up the instrument and subjects in whose interest registration was requested, the contracting parties and parties in litigation . . . are jointly and severally obligated to pay the tax.

For instruments subject to registration “in case of use” and for instruments voluntarily registered, only the party requesting registration is obligated to pay.

F. AUTOMOBILE INSURANCE TAX

Law n. 990 of 24 December 1969

Article 36

The insurance of third party liability for damages caused by vehicles circulation are subject to the taxation on premium pursuant to Law No. 1216 of 29 October 1961, in the proportional measure of 5 *lire* every 100 *lire* of premium. Said amount is due also in cases where the same insurance contract covers, in addition to the third party liability, other risks due to the vehicle circulation.

Law n. 1216 of 29 October 1961

Tab A

Insurance for third party liability, included that relative to damages caused by vehicles and trailers is 12.5 percent.

G. STAMP TAX

Presidential Decree No. 642 of 26 October 1972

(Substantially modified by Presidential Decree No. 955
of 30 December 1982)

Article 2

Instruments Subject to the Stamp Tax When Initiated or in Case of Use

The stamp tax is due when the instruments, documents and books of account mentioned in Part I of the schedule are initiated, if made within the State, and in case of use for those indicated in Part II of the schedule.

The case of use occurs when instruments, documents, or books of account are presented to the Registry Office for registration.

For promissory notes issued abroad, use occurs, other than in the case of the paragraph above, when presented, consigned, transmitted, receipted, accepted, endorsed, guaranteed or otherwise negotiated in Italy.

Article 3

Methods of Payment

The stamp tax is paid according to the information provided in the attached schedule:

1. In the ordinary way, by using the proper watermarked and stamped paper, as provided by article 4.
2. In the extraordinary way, by using paper stamps, rubber stamping or impressed seal.
3. In a virtual way, by paying the tax to the Registry Office or other authorized offices without actually affixing the paper stamp or the rubber-stamping or by payment through a postal account.

Article 4

Distinctive Size, Value and Nature of Stamped Paper, Stamps and Impressed Seal

Legal paper is watermarked and has the relative value printed thereon. If the value of the stamped paper is less than the tax due, the difference is paid by applying stamps.

The stamped paper, with the exception of that used for promissory notes, must have margins and must include one hundred lines for each sheet. The size, value and other distinctive characteristics of the stamped paper, paper stamps, embossed seals, as well as the ways of affixing the rubber-stamping are established by decree of the Ministry of Finance.

Article 5

Definition of Sheet and Page

For purposes of this decree and the attached schedule: a) a sheet consists of four pages, each page of one side; b) a copy is the reproduction, partial or total, of the acts, documents and books declared as conforming to the original by whom the copy is given.

For mechanical tabulations, the tax is due for each page actually utilized. For reproduction by mechanical, photographic, chemical, and other similar means, a sheet consists of four pages provided they are joined or bound together in order to make a single instrument, bearing on the last page a statement that is in conformity with the original.

Article 22

Joint and Several Obligations

The following are jointly and severally obligated for payment of the tax and of any eventual additional taxes and fines:

1. All parties who sign, receive, accept or transact instruments and documents not in compliance with the provisions of this decree or who attach them to or list them on other instruments or documents.
2. All parties who make use, pursuant to article 2 of an instrument, document or book not subjected to tax initially without first providing for the stamp tax.

TABLE

Enclosure B

Instruments and Papers Totally Exempted from the Stamp Tax

Article 6

Invoices and equivalent documents thereof relative to transfers of goods or rendering of services on which the value added tax (IVA) is levied.

For such documents, in case IVA is not put on evidence, the exemption applies on condition that they contain an indication of being issued in relation to payments of transactions already subject to IVA

H. REFUSE COLLECTION TAX

Royal Decree No. 1175 of 14 September 1931,
as amended by Presidential Decree No. 915
of 10 September 1982

Article 268

Tax. For services relative to the disposal (in the various phases of receiving, gathering, burning, transport, treatment, massing, deposit and discharge on the ground or under) of solid, urban, internal garbage, the municipalities must institute an appropriate annual tax on the basis of a rate, the revenues from which may not exceed the cost of such service.

From such cost there shall be deducted the income from salvage and recycling of garbage under the forms of materials or energy.

Article 269

Taxpayers. The tax is due by whoever occupies or operates premises for any use existing in the city limits in which the services are instituted in accordance with the disposition of existing laws on the matter.

The tax must be applied even to the areas used for camping, service stations, open-air dance halls, open markets, as well as any other open area for private use, where garbage can be produced, which does not constitute an accessory to the premises subject to tax pursuant to the preceding paragraph.

The tax runs from the first day of the next bimonthly period following the date on which the service begins.

Termination in the course of the year of occupancy or operation of the premises or areas indicated above, if properly notified, entitles a right of refund only from the first day of the bimonthly period following that in which the notice is presented.

Article 270

Rate. The tax is commensurate to the area of the premises and spaces served and to the use to which these are designated.

In the determination of the taxable area no account is given to that part which, because of specific structural characteristics and designation, there are formed, as a rule, special garbage, toxic or noxious, the collection of which is to be provided at the own expense of the producer thereof in accordance with the dispositions of existing laws on the matter.

In applying the tax, the municipalities are required to adopt appropriate regulations in which, other than exemptions foreseen by existing laws, there are specified the special rates which, in respect to particular local conditions, can be granted by way of exceptions.

The municipalities have the faculty to reduce the rate up to a maximum of 50% for the areas and the premises, not used for habitation, in the event of seasonal use resulting from a license or authorization granted by competent organs for the carrying out of activities.

The regulations, after approval by the regional control organ, must be transmitted to the Ministry of Finance that provides for its promulgation, after approval by the Ministry of the Interior.

I. TAXES ON ENERGY AND MINERAL OILS

Law No. 32 of 19 March 1973

Article 6

Products subject to the manufacturing tax which are supplied within the territory of the Republic by national firms to military commands of the member states, to international military headquarters and to their subsidiary organizations stationed in Italy under the provisions of the North Atlantic Treaty are regarded as exported, within limits to be fixed annually by decree of the Minister of Finance in relation to the needs of such commands, headquarters and subsidiary organizations.

Electrical energy furnished to the entities specified in the preceding paragraph shall be exempt from the national consumption tax. Electrical energy produced by the installations of the above-mentioned entities or electrical energy of which these entities are considered to be the producers also shall be exempt from the national consumption tax.

Law No. 427 of 29 October 1993

Article 66

21. Among the tax concessions indicated in article 72, para.3(2) of D.P.R. No. 633 of 26 October 1972, are included the supplies of water and energy, in any form, and the transfer of housing-related goods and services which are necessary for the exercise of the institutional functions of the bodies mentioned therein, even though such goods and services are provided to personnel employed by these bodies and as long as the associated burdens are considered by the same bodies at their expenses. For such operations the bodies concerned shall issue a specific statement

J. TAX ON UNLOADING AND LOADING OF GOODS TRANSPORTED BY AIR OR SEA

Law No. 47 of 28 February 1974, as amended

Article 2

A national tax is due on all goods unloaded or loaded at all Italian ports, roadsteads and beaches at a rate of not more than 180 *lire* per each metric ton of goods (amended by article 6, Law No. 692 of 1 December 1981). A partial ton greater than one quintal (220.46 lbs) is to be considered as a full ton.

The tax on goods unloaded or loaded at the ports, as set forth in the provisions of Chapter III, Title II of Law No. 82 of 9 February 1963 as amended, remains in effect and the tax on goods in transit coming from or going abroad is abolished. Such goods are in all cases subject to payment of the unloading or loading taxes set forth in the above mentioned Chapter III.

The amount of the tax set forth in the first paragraph of this article is determined and modified for each port by Presidential Decree upon proposal of the Minister of Merchant Marine in agreement with the Ministries of Finance, Treasury, Budget and Economic Planning, taking into account the type of goods and the average cost of services furnished.

Presidential Decree of 13 March 1974

1. The tax set forth in the second and fourth paragraph of article 2, Law Decree No. 47 of 28 February 1974 due on goods when unloaded or loaded at all Italian ports, roadsteads and beaches is fixed in the following amounts for each metric ton:

- *Lire* 30 Phosphates and similar products and nitrates, sodium nitrate excluded
- *Lire* 60 Building materials
- *Lire* 90 Cereals, coal, assorted mineral oil and bricks
- *Lire* 195 Goods other than the ones specified above (amended by article 6, Law No. 692 of 1 December 1981)

The exemptions and allowances provided by article 3 of Law Decree No. 47 of 28 February 1974 are confirmed.

K. TAXES ON THE USE OF AIRPORTS OPEN TO CIVILIAN AIR TRAFFIC AND FREIGHT TAX

Law No. 24 of 9 January 1956 which provided for fees on movement of passengers and freight at civilian airports, was replaced by article 10 of Law 324 of 5 May 1976. The amount of airport duties, included in such law of 1976, was amended by Law No. 25 of 15 February 1985 and Law No. 316 of 2 October 1991. None of these provisions exempt Italian military personnel. The only military exemption exists in article 58 of the Presidential Decree No. 237 of 14 February 1964. This Decree exempts Italian conscripts from paying for train and bus tickets when they return home.

The more relevant provisions of the above-mentioned laws are as follows:

a. Law No. 324 of 5 May 1976 as amended and Presidential Decree n. 434 of 26 August 1993 (noise fee): The traffic of private aircraft and persons in the airports of national territory open to civil traffic are subject the payment of the following duties:

1. duties of landing
duties of departure
duties of custody (parking fee)
duties of assistance
2. duties of embarkation of passengers
3. duties of noise

b. For every passenger boarding a plane to go abroad, there is a duty not to exceed 14,784 *lire*, for domestic flights the fee is 5,775 *lire*

The duty is not payable when a continuation of a trip is involved, especially if the interruption is caused by the necessity of changing planes or for other reasons not subject to the passenger's choice.

Furthermore, the duty does not apply to children under two years of age and is reduced to 7,392 for children up to 12 years.

The duty is due by the carrier who can seek reimbursement from the passengers.

c. The landing and departure duties of airplanes, referred to in Article 2 of Law No. 324 of 5 May 1976, are increased as follows:

1. for airplanes going abroad: from 3,030 to 3,180 *lire* for every ton or fraction thereof on the first 25 tons of the highest weight at take-off, resulting from the certificate of airworthiness; from 3,780 to 3,970 *lire* for every successive ton or fraction thereof;

2. for airplanes going within the national territory, with exclusion of those destined to didactic activity: from 1115 to 1170 *lire* for every ton or fraction thereof on the first 25 tons of the highest weight at takeoff resulting from certificate of airworthiness; from 1680 to 1765 *lire* for every successive ton or fraction thereof.

The rates above are increased of 5% up to April 1996.

d. The landing and taking off duties are subject to the following additional tax (noise fee):

1. For turbojet and propeller driven aircraft without noise certification the tax above is increased by 20%: for turbojet powered aircraft certified to the Convention of Chicago Annex XVI, Chapter 2, of 7 December 1944 the tax is increased by 15%: for the latter provided by Chapter 3 of Chicago Convention, and for propeller driven aircraft with noise certificate the tax is increased by 5%

e. The duty for shelter or for uncovered demurrage of any kind of airplane, referred to in article 3 of Law No. 324 of 5 May 1976, is increased to 120 *lire* plus 5% per ton or fraction thereof of highest weight at take-off resulting from the certificate of airworthiness and for every hour or fraction thereof forward from the first two hours, which are exempt.